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**Legislative Assembly
of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Monday 8 September 1997

**Journal
des débats
(Hansard)**

Lundi 8 septembre 1997

**Standing committee on
resources development**

**Workers' Compensation
Reform Act, 1996**

**Comité permanent du
développement des ressources**

**Loi de 1996
portant réforme de la Loi
sur les accidents du travail**



Chair: Brenda Elliott
Clerk: Donna Bryce

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT RESSOURCES

Monday 8 September 1997

Lundi 8 septembre 1997

*The committee met at 1628 in committee room 1.*WORKERS' COMPENSATION
REFORM ACT, 1996LOI DE 1996
PORTANT RÉFORME DE LA LOI
SUR LES ACCIDENTS DU TRAVAIL

Consideration of Bill 99, An Act to secure the financial stability of the compensation system for injured workers, to promote the prevention of injury and disease in Ontario workplaces and to revise the Workers' Compensation Act and make related amendments to other Acts / *Projet de loi 99, Loi assurant la stabilité financière du régime d'indemnisation des travailleurs blessés, favorisant la prévention des lésions et des maladies dans les lieux de travail en Ontario et révisant la Loi sur les accidents du travail et apportant des modifications connexes à d'autres lois.*

The Chair (Mrs Brenda Elliott): Good afternoon, everyone. I call to order the standing committee on resources development undergoing clause-by-clause review of Bill 99. I welcome Mr Bisson to the committee this afternoon but indicate to members that he's unfortunately not a voting member at this time.

We were on page 10, which is an NDP motion. Before we go further, I would like to indicate to everyone here in our audience that you're most welcome today but there is a great deal of discussion that's ongoing and I must ask your cooperation in accordance with the standing rules. Because it is so difficult to hear, I will tolerate neither interjections nor applause today.

Mr David Christopherson (Hamilton Centre): On a point of order, Madam Chair: I have been advised there was some difficulty at the beginning of the meeting in terms of the room again not being large enough to accommodate all the people who were here. Can you advise me what took place before this meeting started with regard to the public? Are you aware?

The Chair: I'm sorry. I'm not aware there was a problem. Generally we have an overflow room if there's something. It's not a point of order, first of all, but you can certainly bring that to my attention. We generally try very hard to accommodate those who want to attend meetings.

Interruption.

The Chair: Clearly if the doors were not open that was because there was a recognition that we would be unable

to be under way at our normal time of 3:30. That would be my assumption.

Mr Christopherson: Madam Chair, with just a little bit of indulgence on your part, the ability of people to participate in these committees, the lack of their ability, quite frankly, has been a key focus of opposition for us in responding to Bill 99. We've had problems in other cases where people were turned away from rooms and put into overflow rooms. Sometimes it worked, sometimes it didn't. One of the things we did last time was to move into a larger room, and if this is going to be an ongoing problem, I think there are committee rooms that are larger than this that might accommodate more citizens. Now there is a practical cutoff point —

Interruption.

The Chair: Ladies and gentlemen, I made it very clear at the beginning I would not allow heckling and I will not allow applause. This committee stands recessed until 5 o'clock.

The committee recessed from 1631 to 1659.

The Chair: Ladies and gentlemen, the standing committee on resources development resumes hearings on clause-by-clause of Bill 99.

Mr Christopherson: On a point of order and personal privilege as a member of the Legislature, Madam Chair: I want to go on record as taking great exception to both what you did and the manner in which you did it.

First, I think you have to recognize that, unlike a lot of other things, this bill affects these people directly. It affects their lives. It's bound to evoke some emotion. Up until now you've shown a fair bit of discretion and tolerance, and I realize that members of the government may not appreciate it, but it has worked better for the public, which is also an important part of this process. I would ask you not to be over-influenced by the government's desire to hide from the impact this is having on people and to allow now and then a little bit of tension release, as you've done in the past. This abrupt change causes me great concern.

Second, I want to point out from a point of order point of view that even when there's grave disorder in the House, the Speaker, as best I can recall, only adjourns the House for 10 or 15 minutes. You adjourned this committee for almost 30 minutes at a time when we're already under time allocation. It's definitely undemocratic and unfair. I would ask you to please refrain from doing that in the future.

The Chair: Thank you, Mr Christopherson. I acknowledge your understanding that I have tried to be fair and reasonable. I have tried very hard to be fair and reasonable. This is a standing committee of the Legislature. If we were in the House and that had occurred, you and I both know that Speaker Stockwell would have had the gallery cleared, no questions asked. I am making it very clear to everyone here that I tried valiantly to get through clause-by-clause the other day. It was almost impossible to hear. I was hoarse when I left. I am saying to everyone here that the rules are going to be held. It is going to be orderly. There will be no interjections, so that we may engage in a proper debate of Bill 99.

Mr Christopherson: I want to remind you, Chair, that we're under time allocation —

The Chair: I quite understand that.

Mr Christopherson: — and that every time you do that it has greater impact than at any other time. What I don't understand is the sudden change. The government may not like the responses they get, but there is a little more informality in committees, as you know. Even in exchange between us in this room, there's a little more discretion, a little more latitude. I'm asking you to extend what has been up until now, in my opinion, a fairly balanced approach by you to recognize this. This sudden change of heart I don't think serves you or the public or this Legislative Assembly at all.

The Chair: You well know that I am trying to be fair and reasonable, but the committee cannot proceed unless we have order.

Mr Richard Patten (Ottawa Centre): I would just like to add my voice to that as well. I think half an hour is a little excessive. If you want to make a point — the Speaker himself often will do that for five or 10 minutes, to have a recess — if you want to establish your point, I would suggest it doesn't need to be 30 minutes when we're going to have less than an hour to go through all these amendments. Any time you cut the time, as you know, it favours the government side because once we hit the fourth day whatever isn't passed will automatically be passed. I would ask that in your attempt to be balanced, you take that into consideration.

The Chair: I will do so. We are now on page 10. We were in the midst of debate on this NDP motion. Is there further debate?

Mr Gilles Bisson (Cochrane South): I think the motion speaks for itself. Just so that people get a taste of where we're at, the motion is that we strike section 19 of the bill, which deals with commencement. What we're suggesting is that the commencement clause would read as follows: "This act comes into force on a day to be named by proclamation of the Lieutenant Governor after a royal commission has carried out a full public consultation...." Those are the key words.

You would know, Madam Chair, along with members of this committee and members of the public, that our government had undertaken a fairly extensive approach to being able to deal with what are quite complicated and technical and, yes, at times emotionally charged issues

about how to make the Workers' Compensation Board work better for people — those are the injured workers who are here, because that's who it's there for primarily — and secondly, to be able to try to find a way to run it in as efficient a manner as possible so that we can make sure the board is in a good, sound financial position.

That royal commission never got a chance to finish its work. The royal commission could have looked at a number of issues that I think would have been of far more value to this government than what is being done through this bill. The royal commission would have looked at issues that go far beyond the scope of what this bill can do.

What we're trying to say by way of this motion is, "Listen, this government far too often seems to react rather than act." In this particular case, the government, because of its ideological belief — and I understand that; I'm a member of an ideological party as well — wants to be able to change the Workers' Compensation Act to favour employers.

There's a consequence to that. There's not only a consequence to the people in this room who are injured workers, and others across the province of Ontario, but with the changes that you make in this act, you'll further mire the board in a larger bureaucratic bees' nest than this province has ever seen.

It's incumbent on any government, when you do change, to make sure that you figure out, first of all, what you want to do. It's clear in this one here that you guys know what you're up to, but you at least have to figure out how to make it work. You haven't done that part.

What we're saying by way of this particular motion is that we need to make sure that whatever changes happen at the board are done on the basis of knowledge and on the basis of facts and not necessarily on the basis of ideology such as you're trying to do with this bill.

Mr Bart Maves (Niagara Falls): I just want to say, as I started to say last week, that I think there has been a great deal of public consultation for quite some time now around the workers' compensation system, with each government bringing forth more legislation to deal with it.

I know that during the last government's time in office their labour minister, Mr Mackenzie, said:

"There's a growing feeling that the WCB is becoming a drain on Ontario's economy, on our ability to attract investment, jobs and spark business confidence. Never has there been such unanimous agreement that the board is in such critical need of reform and renewal. Never in its 80-year history, has the board been the subject of such scrutiny and review. The status quo represents an enormous economic and moral waste of human potential and expertise."

A subsequent labour minister, Shirley Coppen, said, "We have to get the unfunded liability under control because it threatens the whole system."

Our government, in opposition, ran on a platform of reforming the WCB.

I would note that I would think the Liberal Party would vote against this motion because in their red book one of

their positions on workers' compensation was to scrap the Royal Commission on Workers' Compensation. I would assume they're going to vote against this.

I also talk about the Liberals and a quote from their red book which shows the need for change and for us to get on with change. The red book is quoted as saying: "Ontario's workers' compensation system is a mess. High premiums are chasing away investment and jobs. The unfunded liability is out of control, soaring by \$2 million a day. Workers receive a deplorable level of service from a system that doesn't focus enough attention on getting them back to work. The WCB is failing both the employers who pay for it and the injured workers it is supposed to serve."

We agree and that's why we believe we should get on with change. The workers' compensation system is starting to meet with some change with this new board, some effective change. We think that should continue. With Bill 99 that will continue.

Speaking about the current board, in another red book promise the Liberals said that they should "change the makeup of the WCB board of directors to make it less partisan and more accountable to a wider range of stakeholders and the people of Ontario." We've done that. "Improve the administration of the WCB by hiring a new chief executive officer." We did that. "Speed up the time it takes to process claims...and streamlining the appeals process." Done. "Create a WCB return-to-work department." Bill 99 is doing that. "Cut down on fraud." These are all things that were asked for in the Liberal red book.

They also said, "Put the WCB on a sound financial footing by eliminating overpayments to injured workers, cutting administrative costs, and improving the rate of return on the investment portfolio by hiring private sector money managers." Many of those things are already done. They also said, "Disband the Workplace Health and Safety Agency and put it under the WCB." That too is being done.

There's been quite a bit done already. All three governments in the past decade have attempted change, have seen the need for change. It's important that we get on with Bill 99.

Mr Bisson: I come back to the point again. Let me try it this way: What I'm saying, and what our colleagues are trying to say by way of this amendment, is the government cannot rush through and try to make holus-bolus changes to the workers' compensation system without truly understanding what the consequences of those decisions will be. We know, because of the presentations of people who've come to this committee time and time again, that if we pass this bill in its form, not only will injured workers get a worse deal, the board itself is not going to work adequately because the changes you're doing — in my view and I think in the view of many other people — are really going to be a lot worse.

The argument I make here is simply this: This government time and time again is showing it shoots first and asks questions later. Just recently, last Friday, the government found, by a decision by one of the courts, that when you passed Bill 26 and you took away the rights of

women when it came to pay equity you acted in haste. The judge reprimanded this government and said your move was unconstitutional. You didn't think your actions through. You just moved in an ideological position. What you ended up doing in the end was taking away the individual rights of certain classes of women. You didn't decide to take pay equity away from all women; you took it from those who are most vulnerable. That's exactly what you're doing with this bill.

You're opening a can of worms by passing this bill, because you're attacking the very people who are least able to defend themselves. Who knows? There might be a class action suit or there may be some type of challenge before the courts in regard to the constitutionality of what you're doing here. You can't do this kind of stuff in isolation without understanding what it is you're going to be doing. That's the point of a royal commission.

Why did we act in the way we did in putting in the royal commission? I accept and understand the comments made by the former Minister of Labour. We agree. I don't think there's a New Democrat in this room or anywhere in this province who, for some reason, thinks the Workers' Compensation Board doesn't have problems. But that doesn't mean that to fix it you attack injured workers. Not at all. What it means —

Interruption.

Mr Bisson: What we are saying as the New Democratic —

The Chair: Excuse me. I thought I made it very clear. This is the time for debate. This is not the time for audience participation. That's my last warning. The next one will be a recess. Excuse me, Mr Bisson. Please continue.

Interruption.

The Chair: Order. Ladies and gentlemen, we'll take a five-minute recess. No more.

The committee recessed from 1711 to 1716.

The Chair: We'll continue with debate on the NDP motion on page 10. Mr Bisson, please.

Mr Bisson: Madam Chair, before I do, I must say for the record that I had the privilege of being able to serve on this committee when we were on the road, hearing from the public, in certain communities in Ontario. I've got to say that I came away from that with a large amount of respect for the job you had done.

This is a very emotional issue because these are the people who are going to get hurt. If you were on the other side, you would know how they feel. I'm sure you do. You tried to take what I thought was a balanced approach of, yes, hear what the deputants have to say, but allow them a little bit of opportunity to express their feelings.

I really get the sense that the government members of this committee have got to you and are somehow complaining that these people shouldn't have a right to express how they feel. I've got to say that is not, in my view, helping the procedures at all.

I know you're trying to do a good job and I know you're an honourable member. I would ask, please go back to what you were doing before. You were doing a good job. Don't listen to these — I can't say the word

"thugs" — members of the government. I withdraw that because I can't say "thugs," so I won't say that. But as to the members across the way, don't pay any attention to them. Do your job. Be independent. Do what you were doing before and this will go a lot more smoothly. Once I get a chance, I want to finish my comments.

The Chair: Do you wish to speak to the amendment?

Mr Bisson: Yes, I do. That was on a point of order.

The Chair: Then would you please proceed.

Mr Bisson: Now I go to what I was getting to. I was saying, and I'm going to repeat only part of it because we were interrupted by your recess, that the reason —

The Chair: Excuse me. For the record, interrupted by audience interjections, and then recess. Please continue.

Mr Bisson: And then subsequently your recess. Last time I had recess I was in grade school, so I take great offence at it.

Now, to get back to the point: I was simply trying to make the point that this is a very complex issue. The issue of workers' compensation has been an issue that all governments have dealt with to a certain extent, and fairly successfully. The previous Conservative government under Bill Davis made a number of changes to modernize the board, the Liberal government made some, we made some, and your government is trying too.

All of us in this Legislature recognize there are problems at the board. I see them in my constituency office. Injured workers come in who can't get access to justice because of the rules of the board, also because of how the board sometimes is administered, and also because of how employers deal with the board.

There are very complex issues we need to deal with, and that's the point of the royal commission. That's why we, as a government, said, "We will make some interim measures to fix some of the injustices of the board, to give the older workers some extra dollars," through the changes we did, by changing the board to a tripartite system where workers and injured workers and the employers had a say, with government on the board, so that we all worked together. We were working at changing that culture so that it was not as polarized as you're making it.

Allow the royal commission to do its job. That's what we're saying. Allow the royal commission to look at the issues, to be able to come back with some recommendations that are based on fact and on justice. The way you're going is quite contrary to that.

The only other point I want to make is this: If these kinds of measures, such as we're seeing in this bill and in other bills such as Bill 136, were taken in a third world country, we in the province of Ontario would classify it as dictatorship and denounce those actions of that dictator. I would almost be willing to bet that we would be making submissions to the United Nations for people to get involved because somebody's human rights were being violated. I find it very ironic that the province of Ontario, supposedly a province that prides itself on democracy, can see these kinds of changes happening and a government trying to ram through this kind of bill in the kind of pro-

cess we've gone through. I take quite an exception to it. It's a travesty of our democracy.

Mr Patten: Speaking to the motion, I fully agree with the spirit of it. Frankly, at this stage I wouldn't see launching a whole royal commission because I think we know a lot more now than we did before, but I will support it because the intent of it is and the spirit of it is that a full public consultation into the workers' compensation system be submitted in its final report, including injured workers as well. I don't feel that has been done. From that point of view, I would support it.

I remind the parliamentary assistant that one thing we certainly did not propose was to reduce the premiums for the business community. We suggested there be a freeze and look at the whole administration and review that to find some savings there, and not reduce premiums and do it on the backs of injured workers' benefits.

Ms Shelley Martel (Sudbury East): With respect to some of the comments made by the parliamentary assistant to this motion, it is very true that Bob Mackenzie, former Minister of Labour under our government, did say that there was a critical need for reform and renewal of the system. That's why we established the royal commission. We established the royal commission so that our government would get the benefit of hearing from injured workers, particularly about what they felt needed to be changed in the system, how the system should be reformed so it better served their needs.

We weren't afraid to meet with injured workers, to talk to them directly about those changes, as your government has been with respect to the changes proposed in Bill 99. Your government wouldn't even agree to a meeting where injured workers could come, like they did at Convocation Hall, to talk to this government and to the committee very clearly about their concerns. That's how much you wanted to hear from injured workers about their needs.

There is nothing in Bill 99 which reforms the system positively for injured workers. It's an insult to suggest to the committee members or to the good people who have come here today that as a consequence of listening, you are putting forward something that makes their situation better. That is just not true. We have heard that on the committee hearings, limited as they were by your government; we have heard that again and again. There has not been a single injured worker or their representative, whether it be from a trade union or legal clinic, who has come to say that Bill 99 responds to their concerns or that Bill 99 is going to do something positive for them. That's not the case.

The only people you have listened to during the course of Bill 99 are your employer friends, who aren't interested at all in reforming the system so it will work positively for injured workers. The only thing the employers care about is how they can have their premiums reduced. That's the bottom line.

The reason we're putting this motion forward is because, it is true, the system needs to be reformed, but it can't be reformed on the backs of injured workers and that's what your government wants to do. You should re-

establish the royal commission. You should go out and actually hear from injured workers because you didn't with respect to Bill 99. There's nothing in Bill 99 that reflects their needs or their concerns.

You should do the right thing and for the first time truly have a consultation with the people whose lives are affected most by the dramatic changes you want to bring forward. The proclamation of this bill should be put off until this government does the right thing, which is to establish the royal commission again, talk to injured workers directly about the things that have to happen to truly reform the system so it will respond to their needs, and bring back a bill that actually does that, instead of bringing forward the bill we are trying to deal with here today that does nothing but attack people who don't need to be attacked any further by this government.

Interruption.

The Chair: Order. I thought I made myself very clear. This is the time for clause-by-clause debate. That's the last warning. I'll be forced to recess. Further debate, please, from Mr Hastings.

Mr John Hastings (Etobicoke-Rexdale): I'd like to review briefly some of the comments I've been listening to. It's hard to get your head around some of the fanciful thinking that's being projected, by the third party particularly, with respect to this particular clause.

First off, I'd like to point out that I object strenuously to the words the member for Cochrane South used. I think the inference was or the word was put on the record, and then he hastily withdrew it, that somehow or other I'm a thug. I resent that personally and I would ask the member to withdraw it, even though he sort of did it in a very sly way. I think it's despicable that he made that comment about members of this committee, an absolutely incorrigible comment.

The Chair: Mr Hastings, please try to speak to the motion.

Interruption.

The Chair: Order, please.

Mr Bisson: On a point of order, Madam Chair: It's not only I who feels the government is acting like a bunch of thugs, but a whole bunch of other people in this province.

The Chair: Please, Mr Bisson, come to order. Mr Hastings, you have the floor, speaking to the NDP motion on page 10.

Mr Hastings: He insisted on making the comment again, Madam Chair. Are you going to allow that comment to stand?

The Chair: Mr Bisson, do you wish to withdraw?

Mr Bisson: I withdraw because I want to participate.

The Chair: Thank you, Mr Bisson.

Mr Hastings: Thank you very much. It's an interesting note that he makes that he wants to participate. There seems to be a definition of "democracy" regarding this committee that as long as you allow any kind of demonstration, allow anybody to make any kind of a comment, do anything they want basically, that is defined as "democracy," but as soon as you make a ruling, somehow

or other that seems to be anti-democratic. What a bizarre definition of "democracy."

With respect to the royal —

Interruption.

The Chair: Moving to the motion.

Mr Hastings: With respect to the royal commission, this government abolished the royal commission because it was a \$3-million escapade in travel, a \$3-million exercise in pretending to listen to injured workers and others in the community.

It's particularly interesting that the royal commission probably would have had to make some recommendations regarding the Workplace Health and Safety Agency. I found it remarkable that Mr Christopherson, the member for Hamilton Centre, has consistently defended this magnificent model of an organization, which supposedly was put in place to deal with the interests of the health and safety of injured employees. Yet when you go back and look at the rationale for the continuance of it, one of the things that struck me as absolutely uncalled for, but they had certainly undertaken it — I'm sure the royal commission would have found it rather difficult to defend if it had continued, if it had had the mandate to look into the Workplace Health and Safety Agency — was that in the auditor's report of 1995 there were several things he found completely out of whack in terms of accountability.

The thing I found absolutely startling that sort of epitomizes all the other managerial incompetence of that agency was that the senior management received unwarranted perks. Five of them leased cars they were not entitled to at a cost of \$76,000. Even if the amount is rounded out, a defence of this agency which had undertaken that five of its managers lease cars without authorization, I don't know how in goodness' name that would have any remote relationship to the advancement of health and safety under this agency.

That's one of the primary reasons for the elimination of this agency. You can add up another 18, but I think that one is the major focus. How that particular item advances any kind of health and safety training is completely unfathomable. That is why we need this particular motion today, to get on with the job of instituting Bill 99.

Interruption.

The Chair: Order. Further debate.

1730

Mr John O'Toole (Durham East): Thank you, Madam Chair, for the opportunity to commit to the record the need for reform. I think it's been widely accepted here by Ms Martel and others that reform is required. There has been much consultation. In fact, there have been two or three royal commissions — yours wasn't completed but there were two prior to that — all of which were indicators of a need for reform. So I think we've established there was a clear need for reform. The important thing is to recognize the participants. In our public process I was somewhat disappointed on occasion where there were repetitive, word for word, presentations. That was sad when in the audience were real people with real stories we were trying to hear, away from politics.

Ms Martel: Maybe you should have extended the hearings if you wanted to hear from —

Mr O'Toole: Pardon me, Ms Martel. I just want to read this — I've had a lot of communication and correspondence on this — if I may for the record, because I kind of embrace this thought:

"This law reform process has been flawed from the beginning because of the failure to include injured workers. Workers' compensation reform is too far-reaching to be left to bargaining between representatives of big business and big organized labour. The failure to include injured workers on the Premier's Labour-Management Advisory Committee was a mistake and an insult to workers in Ontario."

I might say that this was made during the public hearings of Bill 165 by the then president of the injured workers. I don't think any of us has had a flawless process, but as we go through these amendments and your attempt to keep order here, there has been wide consultation. There is need for reform, and I think if we each pay respect to each other — I am surprised by Mr Patten, when I read your policy statement. I am going to have to send you a copy of it because clearly the return-to-work language was one of your central platforms. The complete reform was one of your central platforms. The abolishment of the royal commission was one of your central platforms.

How can you completely abandon that principle, or are you without principle? For injured workers we must have a law that's balanced and fair and the process must, at the end of the day, serve injured workers. On the record there's a lot of correspondence.

One last thing I think is very important: I asked for an independent opinion from the Provincial Auditor, Erik Peters, on the status of the unfunded liability. It is very clear the auditor is not a political candidate. In fact, he said clearly in his annual report, "A strategy to deal with the board's unfunded liability must be developed and implemented as quickly and effectively as possible."

There's a non-political accountant, an expert, a professional telling us that we had to take action quickly. That's exactly what the government's doing and I believe that at the end of the day there will be money, there will be a system that will be responsive to the injured workers of Ontario.

Interruption.

The Chair: Order, please. Further debate.

Mr Christopherson: It's just so infuriating to hear members of the government talk about what they're doing and try and defend what quite frankly is indefensible. First of all, and I could start just about anywhere, to listen to Mr O'Toole say that they want fair and balanced, I've heard "fair and balanced" come out of government members.

The Chair: Please, be sure you are speaking to the amendment before us on page 10.

Mr Christopherson: I am.

The Chair: Good.

Mr Christopherson: I moved it. It's my amendment. For that government to continue to say "fair and bal-

anced," but it's coming up in the next two amendments, one from the Liberal caucus and one from ours, speaking to the word "fair" you've got a lot of gall saying the word "fair" in terms of what your government wants to be, and you're taking the word "fair" out the act, the same as you took it out of the OLRA. You took it out of there too. So don't give us this garbage about fair.

When you talk about respect, you'd get a lot more respect if you really did treat people with the respect that you say you want them to treat you with. The fact is that your government, never mind a bunch of thugs, they're sure a bunch of bullies. Bill 26 was nicknamed the bully bill for good reason. You tried to ram that sucker through the House. Mr Hastings talked about a bizarre definition of "democracy." If anybody's got a bizarre definition of "democracy," it's the Mike Harris Tories in this province. You just finished changing the rules so that you could introduce a bill on a Monday morning and ram it through and by Thursday night it would be the law of the land. Where's the time for people to have input?

The Chair: Please speak to this. It is your amendment.

Mr Christopherson: I am speaking to it. I'm talking about the need for a royal commission.

The Chair: I haven't heard "royal commission" yet. Okay, good.

Mr Christopherson: I'm explaining why the royal commission should have continued, why we should be doing that instead of implementing Bill 99, and I'm refuting the arguments the government offered when they were saying this amendment ought not to carry.

I believe I'm perfectly in order and right on the amendment. The fact of the matter is that you are undemocratic. What happened with Bill 7? Who was involved in the development of Bill 7, just like Bill 99? Just your friends in the background, not one minute of public hearings on Bill 7, and when it came to province-wide public hearings on Bill 99, six measly days. That's disgraceful and disgusting. You have no idea what democracy is.

Interruption.

The Chair: Ladies and gentlemen, colleagues, Mr Christopherson has the floor.

Mr Christopherson: My final point is, in referring to the Provincial Auditor's report — the government members used it to talk about my amendment, so I feel I'm perfectly in order to respond to it — one of the things they said in describing what they saw was that the WCB has had managerial incompetency. Let me tell you, that whole issue of incompetency and what makes any kind of common sense is what blows your argument about why you're doing Bill 99 all to hell and back. The fact is that out of the \$15 billion you're cutting, at a time when you say you're changing Bill 99 because of the unfunded liability, you're giving back \$6 billion in revenue from the people who owe the unfunded liability, which is the employers, not the injured workers.

Mr Bisson: I'm only going to go for another minute. It's obvious the government is not going to listen on this one, but I just want to make a couple of points. The members opposite, Mr O'Toole and Mr Hastings, make the

point that we don't need a royal commission because this government has listened. It's obvious this government didn't listen when it comes to this bill. None of the amendments we see this government coming forward with try in any way, shape or form to address the injured workers' concerns in Ontario. You certainly have listened to the employers of this province. It's clear you haven't listened to the people who are going to benefit under this act — I shouldn't even use the word "benefit" because WCB really isn't a benefit in my view. The point is you haven't listened. There are no amendments in here that are going to help injured workers.

The other point is that you're saying you want to help injured workers. What in this act, pray tell, helps injured workers? You're saying you're doing this reform and you don't need to do the WCB royal commission because this act is somehow going to help injured workers. I don't see anything in this bill that helps injured workers.

You're cutting their benefits, you're eliminating their ability to file compensation claims on a number of issues, and you're making it more difficult for them to access a fair settlement with regard to workers' compensation. Where do you get off saying this is going to help workers?

That's the argument we're trying to put forward for why we need a royal commission. We need somebody that's somewhat independent to stand back from this thing, take a look at it for what it is and try to deal with the issues and the facts that surround the problems of the Workers' Compensation Board so that we can come up with a good settlement about how to fix this.

The last point I'm not going to dwell on for long, but I think my colleague Mr Christopherson, our labour critic, put it well. What government or what business in its right mind would ever stand up and say, "We're trying to deal with the unfunded liability of the board, and that's why we're doing this," and then go and cut the benefits by 5%? These are the people who say they are the bastion of the private sector, that they know how to run companies and are, oh, so smart when it comes to money and they know how to do it so well. What business in its right mind that's going through economic difficulties would say, "We're going to fix our economic difficulties because we have a shortfall when it comes to the amount of cash coming in here," and then turn around and throw out \$6 billion worth of revenue? It makes absolutely no common sense.

Interruption.

Mr Bisson: Exactly. This government is really incompetent when it comes to how it's dealing with this, not only from a fairness perspective but also from a fiscal perspective and what it means to the board.

We ask the members of the government to support our motion. Please do so for the good of this province and of injured workers.

1740

Mr Pat Hoy (Essex-Kent): Speaking to comments made by the government side to this motion on page 10, that submissions were rather repetitive as we travelled throughout the province: Prior to my election and being at this place, I travelled on some hearings that went out a

week at a time, every other week, for three months, and it's true some submissions tend to be quite like something you may have heard the week prior. Those people in those constituencies are agreeing with what has been said elsewhere. That's all it is. They are in agreement. They are representing a certain group of persons who also are in agreement with what has been said across the province. To suggest that the repetitive nature of submissions may not be warranted or welcomed is wrongminded.

I would also say that some of the submissions were repetitive on both sides of the issue, not just those that were in the negative. In the main we heard through the submissions that Bill 99 is flawed, there's no doubt about it. I just wanted to comment that those people who came to the committee were representing groups, organizations, individuals in their communities and were only solidifying the point of view that Bill 99 is wrongheaded.

To the amendment, we agree that there should have been, and to date has been a lack of, full public consultation with regard to Bill 99. That is most important and a part of the motion we do support.

A royal commission? We're at the stage now where all parties agree there need to be some change. The timeliness of that commission reporting back may be questionable. I think we're at a point where we should have had full public consultation in advance of this bill. That's where our concern has been all along through the hearings, and we only wish the government had spoken up and met with people prior to introduction and on a more widespread basis than it did up to and including today.

Mr O'Toole: I appreciate the amount of time that is being given to this third-party amendment. I think all amendments should get a respectful amount of time, but I think we have to move along.

I just want to respond to a couple of things. There has been consultation, as I said before, two previous royal commissions, and Minister Jackson's report on New Directions was also an attempt to gather input from all over the province. Just in response to the importance of public hearings, in Kingston I remember one injured worker who was from a railway company. He had fallen from a train, a very young man, and had become an amputee. That is the importance of hearing the real case stories, the obstacles that were presented to them.

When we take time to listen, I think there is clear evidence that no one has a corner on mismanaging the time for public hearings. Mr Hoy has mentioned his public hearing process. I'm not sure what the topic was, but I think it's important. Each one of us as a member listens to our constituents, and I have met with the people here. I know I have consolidated their thoughts and forwarded them to the minister, and that's important.

I want to say that for the public hearings on Bill 165 they visited four cities, and that's the time they looked at the Friedland formula and really took it apart. You talk about taking money out of the system, right or wrong, there's a very important thing, and Mr Christopherson would know, that "to restrict and limit access to only the few that can afford to participate is a disgrace," and that's

directly from the injured workers again. That's a comment on your process. Obviously you don't have the corner on the public hearings process. People are here today, and we're always listening, we're always available to listen.

The last point I want to make though is, to think that you had some kind of agreement with the people in the —

Interruption.

Mr O'Toole: Mr Christopherson, at that time of the hearings on Bill 165, thought they had agreement with the Ontario Federation of Labour. I have a quote here in front of me dealing with the hearings on Bill 165, and clearly Mr Wilson said, "This federation does not willingly endorse the Friedland formula or anything else that would reduce benefits." So there's no agreement. There's no possibility with your mandate as being endorsed by labour, clearly, that you could agree with any part of this bill even if it brought financial stability back to the whole WCB delivery model. Your leadership, your bosses have told you the response, and I suspect you will listen very closely to what they tell you, every single day.

Interruption.

The Chair: Order, ladies and gentlemen.

Mr O'Toole: I have to recognize that Mr Wilson on balance is a very progressive person. I'm just reading a little quote here. He says that cooperation in the return-to-work programs creates a "win-win situation." In fact, he's clearly on record as being in favour of a return-to-work program. If anybody wants response references here, this is by Gord Wilson, very clearly in support —

Interruption.

Mr Bisson: What do you think they want to do, sit at home?

Mr O'Toole: Why didn't you do it?

The Chair: Order. Ladies and gentlemen, we have three speakers who would like to speak. Order. A five-minute recess.

The committee recessed from 1747 to 1753.

The Chair: Ladies and gentlemen, resuming debate on page 10, the NDP motion.

Mr O'Toole: I just want to say that the previous government had an opportunity to make the much-needed reforms like return-to-work provisions similar to Bill 99. I would expect if they're supportive of it, as Mr Wilson was, they will be supporting those particular sections of the bill.

Mr Patten: I would like to respond to Mr O'Toole's comments which bordered on unparliamentary language, if ever I heard it, when he said, "How can you be so unprincipled?" I'll match my principles any day with yours, my friend.

Everybody agrees with return-to-work. Everybody agrees with reform. We're talking about administrative reform. While we have trouble supporting this particular amendment because it's tied to a royal commission, because frankly we don't think it's necessary, but we do believe in a full public consultation, and the very first people you always address is, who is supposedly the recipient and most affected by a piece of legislation?

In this bill, as far as we're concerned, it is still a workers' compensation program. You're trying to change it into an insurance program. The very first people you've got to be talking to are the people who are injured and cannot go to work or need help to go back to work, and everybody agrees on that. So I think you should retract your particular comments.

Mr O'Toole: If I may, in respect to Mr Patten, I have the greatest respect for him. I must share with you that I'm reading directly from a document — I know you didn't write it, but you did run on that particular position — and I was quoting that, not you personally, Mr Patten, with the greatest respect.

The Chair: Further debate. Mr Maves, then Mr Christopherson.

Mr Maves: I appreciated the well-rounded discussion on this issue. I want to note that Mr Hoy, I believe, was talking about the consultations that were done by Mr Mahoney before him. He travelled the province.

Mr Patten: No, other committees.

Mr Maves: I apologize. But I do want to point out that Mr Mahoney, a previous member of the Liberal Party, did do a document called *Back to the Future* and that is the basis of all the platform of the Liberal Party and the red book, and that was another bit of consultation that was done.

Charges were made that the government didn't at all listen to injured workers. I think that Mr Jackson in his report talked to over 150 injured workers. He did so in my riding. There were 200 submissions made by Mr Jackson in his report. I think out of that Mr Jackson demonstrated he did listen to workers.

Interruption

The Chair: Order, please.

Mr Maves: I know some of the injured workers haven't got everything they've asked for, that's obvious. One of the groups asked for a tighter definition of "accident" and that was not brought forward by the government. They asked for a direct-pay model. That too was not brought forward by the government. They asked for a three-day waiting period. That's another thing the government did not bring forward. They asked for those who were 100% disabled to have 100% protection and that is retained in Bill 99. So there are some clear cases of Mr Jackson clearly listening to that community.

I think also during the hearings, in some of the amendments you will see as we move along, there were some amendments that pertain directly to things we've heard; for instance, asking the board to study further the issue of chronic pain. Again, hearing a lot of folks on all sides of the argument who talked about an audit function or some kind of a policy function for the appeals tribunal, that is a large issue and the government has made some moves there in the amendments.

One thing that came directly from injured workers was a situation where widows, unfortunately, who —

Interruption.

The Chair: Order.

Mr Maves: Widows who remarried prior to 1985 were ineligible to receive pensions and the government has acted on that. There are other things. On return to work: As Mr O'Toole has noted, the OFL is very clear. The injured worker community has talked about the need for return to work. We feel this is a major part of the bill, that we can get people back to work sooner and safer and that that's in everybody's best interests.

I think also the injured worker community talked about bad debts and employers not paying and how we collect more money. Bill 99 clearly does something about that. As

well, this government increased the fine on employers who offended the act. This government was the one that brought in an increase in fines from \$25,000 to \$100,000.

To say that we haven't listened and haven't acted on some of the things we heard from that community I don't think is quite right. I just wanted to let that out there.

The Chair: Ladies and gentlemen, I'm mindful of the time. That concludes our time for clause-by-clause review today. We'll adjourn and reconvene on Wednesday at 3:30.

The committee adjourned at 1759.

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**Legislative Assembly
of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 10 September 1997

**Journal
des débats
(Hansard)**

Mercredi 10 septembre 1997

**Standing committee on
resources development**

**Workers' Compensation
Reform Act, 1996**

**Comité permanent du
développement des ressources**

**Loi de 1996
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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT RESSOURCES

Wednesday 10 September 1997

Mercredi 10 septembre 1997

*The committee met at 1532 in committee room 1.*WORKERS' COMPENSATION
REFORM ACT, 1996LOI DE 1996
PORTANT RÉFORME DE LA LOI
SUR LES ACCIDENTS DU TRAVAIL

Consideration of Bill 99, An Act to secure the financial stability of the compensation system for injured workers, to promote the prevention of injury and disease in Ontario workplaces and to revise the Workers' Compensation Act and make related amendments to other Acts / Projet de loi 99, Loi assurant la stabilité financière du régime d'indemnisation des travailleurs blessés, favorisant la prévention des lésions et des maladies dans les lieux de travail en Ontario et révisant la Loi sur les accidents du travail et apportant des modifications connexes à d'autres lois.

The Chair (Mrs Brenda Elliott): Colleagues, good afternoon. The standing committee on resources development is called to order to continue clause-by-clause consideration of Bill 99. The debate is continuing on the NDP motion found on page 10, and in line for further debate is Mr Christopherson.

Mr David Christopherson (Hamilton Centre): I believe, if memory serves me right, that the parliamentary assistant as well as other government backbenchers had made some comments that I was up next to respond to. If indeed that's where we are, I would like to point out that for all the bragging this government is doing about what they're doing for the widows of pensioners, the courts had already ruled, I believe in BC, that it was discriminatory not to provide exactly the legislative support this government is now so proudly crowing about. The fact is that you're not doing anything that wasn't going to happen otherwise, and were there not that court case, I doubt you'd have made the moves you are making.

There was also talk about Jackson's report and about all the public meetings he had. Let's just set the record straight. Minister Jackson refused repeatedly to attend public meetings that people were prepared to sponsor and host all across this province, and one of the few exceptions was when he was embarrassed into attending a meeting in his own riding in Burlington, I believe sponsored by the injured workers group.

I was at that meeting, and I have heard him reference that meeting, talking about input and how the concerns of workers were heard and he knows what they care about. The fact is that for two hours they ripped him apart, because everything he had in his report was taking away from injured workers. Further to that, he was pressured into committing that there would be province-wide public hearings and he used that response, "Yes, there will be," to get off the hook. Little did we know then that that meant six measly days across the province, and crunched so tightly that in the southern part of the province the only way we could get into both Windsor and London was to do half a day each, a disgraceful display of undemocratic response and a desire not to listen.

Mr Jackson met with people in private. We don't know whom he met with. We don't know what was said to him. We don't know what he said to them. To suggest that somehow that is a democratic replacement for the royal commission we had put in place, which was a wide-open process, is just about as misleading as you can possibly be.

We had a royal commission looking into the things that were not resolved in our Bill 165. I would be the first one to say that 165 was not perfect, but I'll say this about it: There were about 40,000 injured workers who got an increase of up to \$200 a month for life under our legislation. You're taking money away from injured workers. Yes, the OFL was not happy with some of the changes in the Friedman formula, but the reality is that they said they could support the legislation on balance, and said so, and are on the record as saying so. The labour movement is diametrically opposed to everything you've got in Bill 99, everything, so you have no credibility on that front.

Last but not most important, we sure as hell didn't give \$6 billion back to employers, which is what you're doing at the same time that you're taking away 5% of the income from injured workers. Get off your high horse about caring about democracy, because you sure as hell don't care about that or about injured workers.

Mr John Hastings (Etobicoke-Rexdale): It's quite interesting that we have had the start of the meeting and I'm not quite sure if Mr Christopherson focused at all on the actual wording in this particular amendment. It was a marvellous rant, what we've become so used to from him. The reality is that he can talk all he wants till the cows come home about giving additional moneys to injured workers. That's part of the whole problem, the whole

financial bind. Across the way they seldom recognize that there is a problem, and even when they do recognize it, they do a little creative accounting, as we had from Mr Dee, from the Northumberland legal aid committee, trying to adjust the net worth of the assets of the WCB.

The reality is that with respect to this amendment, if you carried out what was in it, you'd have perpetual consultation, because there was no time line, there was no sunset that I can recall in the terms of reference of the royal commission that they're so proud of, that spent \$3 million gallivanting around. We didn't hear anything in the interim reports about the financial problems of the Workplace Health and Safety Agency, and I have to go back to that particular agency.

There were so many unbelievable expenditures within that agency — even if you stretched your thinking as much as possible, how did the financial performance of that agency link up and improve workers' health and safety? The one I focused on the other day, the \$76,000 in leased vehicles, was incredible as a minor expenditure. There were other expenditures I recall in there, well over hundreds of thousands of dollars to consultants for whom they never even tendered. They're criticizing us for the tendering process, yet these very folks ignored a tender and most of the appointees on there came from the labour movement. How any of those ill-advised, underfinanced or overfinanced situations of the Workplace Health and Safety Agency that certainly made life very comfortable for the senior management there had anything to do with improving workers' health and safety I find incredible.

1540

Even some of the certification programs they were getting to, and clerks working in groceries is the one I'm most mindful of — they were going to have folks there for at least four weeks for safety and health training. It didn't really matter whether that disrupted a business — "No, no, you just be there," as the WCB has so often said in its arbitrary manner in dealing with injured workers — "That's it." For an agency that is supposedly so well organized even today — I have a specific example of an individual who walked into one of my employers recently and demanded certain material related to workplace health and safety. They argued that there wasn't a committee in place, then sent the individual a letter that said, "If you do not undertake these measures that I have advised you of at a meeting and a date at which I can get the material," where the employer wasn't even present at a meeting. That illustrates to me that we have a hell of a long way to go in dealing with employers and workers on an equitable basis. Whether you defend the old regime or the one we're in, we have a long way to go.

What I find most astounding is that they have the gall to stand here and say, "It wasn't near perfection." We're not asking for perfection. You won't get anything near perfection with respect to this particular agency even with the improvements we're trying to make.

There is one item which I think needs to be put on the record. The members of the third party argue that there are no benefits whatsoever in Bill 99, yet the fundamental,

number one benefit — if they would look at the financials, even when you incorporate Mr Dee's new stretching of the financial assets to take into account today's market value of whatever they have in their equities and their mortgages and their bond instruments — is the point that this particular agency is in financial trouble. It doesn't matter how you shape it up or shape it down —

Interruption.

The Chair: Sir, come to order, please.

Mr Hastings: Even when you acknowledge \$8 billion or \$10 billion — that's stretching it at the \$10-billion, upper level — it still doesn't take into account future financial obligations.

If you use the so-called premiums they like to talk about, when they're really just rates for doing business in this province, by any good financial standards this agency would be declared bankrupt. The one side only wants to argue about the assets that are there. Whatever the number, whatever you agree on as the common measuring value of the number, they do not want to accept what is owed today or in the future.

When you make legislation, you don't accept the financial obligations or costs that legislation mandates. That's part of the problem of all three governments over the last 20 years. They made these amendments, they had these royal commissions, like this one, and they would recommend financial tinkering, but they would never get down to the root, fundamental causes of the lack of financial accountability and sustainability. Sustainability, I would argue, is the key rationale for getting this organization back on the tracks, when you would honestly say, "Yes, there are assets there, but do they meet today's financial obligations and future financial obligations?"

If you accept the whole argument, both assets and liabilities, then this organization needs a lot of work to get it into a financial area where you can say, "Yes, there's enough money there not only for today's obligations but for the ones into the future." Whether it's this government or any other government, they can't continue to make adjustments and amendments to legislation and say: "Yes, there's enough money there, but no, I don't want to ever hear about what we owe as a result of these benefits. No, we wouldn't want to do that."

I would argue that this particular amendment of the royal commission doesn't really get on with dealing with the job of the key fundamental of this organization: long-term financial sustainability. You can't continue to consult and say, "There are assets there, however you evaluate or value them." I would argue that this particular amendment is simply a classic stall: Consult, consult, consult, but never, ever, ever come to a decision.

Interruption.

The Chair: Order, please.

Mr Hastings: I would request that if there are members of the audience who do not like this viewpoint, that's fine, but we try to be respectful of their viewpoint and try to take it into account.

Interruption.

The Chair: Order, please, ladies and gentlemen.

Mr Hastings: See what I mean? Her definition of "democracy" is what I find so reprehensible: mob democracy. If you agree with us completely, you're fine, but if you turn around and have a slight disagreement or interpretation on whatever the issue is at stake with the future of this organization, they don't want to hear it.

Interruption.

Mr Hastings: Those are the real issues, and I would submit that these folks are out of order in the continuing, persistent interference of the remarks.

The Chair: Moving now to —

Interruption.

The Chair: Order, sir.

Interruption.

The Chair: Ladies and gentlemen, I've made it very clear from time to time —

Interruption.

The Chair: This committee stands recessed for 10 minutes.

The committee recessed from 1546 to 1557.

The Chair: I hope everyone has used the recess time as an opportunity to settle down and acknowledge that we need everyone's attention in order to continue on with the clause-by-clause debate.

The next person up to speak and to further the debate on the NDP amendment motion on page 10 is Mr Patten.

Mr Richard Patten (Ottawa Centre): What I want to say is, we've got maybe two hours today and two and a half hours on Monday, and then that's it. We have these many amendments. I know we've got 45 or so and I think the NDP has 25 or 30 amendments as well. That's about 65 or whatever it is amendments that I think could do the job if people will listen to them and consider them. We think they're fair. I want to make my last comment on this, because I think people should know this. As of the end of Monday night, whatever is not covered, all of the opposition-recommended amendments are lost and all the government amendments are deemed to be passed and they will all go through. So I would like to see us deal with more than just what we dealt with to date.

My comment on 19 is, as I said before, I appreciate the spirit of this; I agree. I would like to see more hearings, I'd like to see a full consultation, but I don't believe at this particular time, given what we've gone through, that a royal commission would be in order.

The Chair: Just a slight correction for the record: They're deemed to be moved, but they all have to be —

Mr Patten: They're deemed to be moved, and then they will be passed.

The Chair: Yes, they all have to be voted on.

Mr Patten: But they will be automatically passed.

The Chair: Further debate?

Mr Gilles Bisson (Cochrane South): That's an interesting comment from the Liberal Party, because I know that their position, while in opposition to our government, was to oppose this particular royal commission. But I thought I heard yesterday that the Liberals were going to support our amendment to have the royal commission, and now I take it you're saying no.

Mr Patten: No, I said on the spirit of the motion.

Mr Bisson: On the spirit of it? Okay. Anyway, I'm not going to get into a fight over that. Listen, I don't want to belabour this any more. I think we've made the arguments that have to be made in regard to why we think the royal commission needed to be given its time to do its job. The government doesn't agree that this is a complicated issue. They think that they can solve this in one fell swoop through this legislation.

I just want to put on the record that we will be back at this yet again the next time there is an election. When these guys are kicked out in the next election, we're going to be back at this all over again, because this particular legislation does absolutely nothing, first of all, to put fairness into the system for injured workers. It doesn't do anything to address a lot of the long-standing problems of the board about how it adjudicates claims and how the claims go through the process. All this is, quite frankly, is a payoff to the corporate friends of the Mike Harris government by giving them a cut in premiums and trying to deal with that as a smokescreen to dealing with the unfunded liability.

Just to clarify the record, the member from Etobicoke-Bedrock or whatever his riding is made the comment that nobody has ever tried to deal with the question of the unfunded liability. That's factually untrue. Our government had made some initial changes to the WCB through our own bill. We then put the royal commission in place to make the long-standing changes around the structural changes at the board that needed to happen in regard to programming as well, and we had dealt with the question of the unfunded liability. The government is again trying to create a phoney crisis as a smokescreen to do what they are doing when it comes to implementing what is an ideological agenda that says workers are bad, employers are good, injured workers are trying to get something for free, so we're going to penalize them. That's all this is about.

The only other thing that I want to put on the record, the member from Etobicoke-Rexdale, Mr Hastings, talked about Garth Dee as having stretched the financial reporting in regard to how the assets are of the Workers' Compensation Board. In other words, the member said a member of the public lied. That's what he basically said. I find it somewhat interesting that a member of the assembly would take that position, especially when Garth Dee is recognized as one of the foremost authorities when it comes to the issues of the Workers' Compensation Board.

The only other point I make is, I wish Mr Hastings spoke more often, because I think it demonstrates to injured workers exactly where this government is coming from and just how anti-worker this government is.

Interruption.

The Chair: Order, please. Further debate?

Mr Christopherson: I agree we want to try to get on with as many amendments as we can, but the reality is, and we all know it, that this government is not interested in any of our opposition amendments. They intend to ram through their amendments. Regardless of what anyone

says and whether it's done by the time limit expiring or going through the sham of one at a time, the outcome is exactly the same. We can all write it on a slip of paper and put it in a sealed envelope and we know what it's going to be, no matter what. We need to keep that in mind as we go through this process.

But in talking about the royal commission and the fact that it's open, and talking about what the real causes of the problem are, I want to take exception to Mr Hastings, who suggests that the cause of the problem is the finances of the board. The cause of the problem is there are too many injuries and deaths in the workplaces in Ontario. That's the cause.

If for one minute anybody actually believed that the unfunded liability was in such a crisis that it warranted this unmitigated attack on injured workers; if one believed, if you suspend reality for a moment and accept that that is the reason, there is no way to defend the fact that you're giving back \$6 billion of the revenue you're currently receiving. It puts the lie to that argument totally and completely, particularly when the 5% reduction in premiums that you have given as a gift to your corporate friends is coming directly out of the pockets of the injured workers whose net income you're now reducing by 5%.

While we're talking about the unfunded liability, let's keep on the record and not forget that the unfunded liability has dropped since the implementation of Bill 165 in the last three years by over a half a billion dollars each year, to the tune of over \$1.1 billion over the total period of time. They've got \$8 billion and growing in assets. The whole argument that if you can't pay all the unfunded liability right now it means you're bankrupt would put every major corporation on this entire continent in bankruptcy in terms of the unfunded liabilities they have around pensions. It's a crock and you know it.

Mr R. Gary Stewart (Peterborough): No, that's a ridiculous statement.

The Chair: Mr Christopherson has the floor.

Mr Christopherson: It's a crock and, by the way, the people that owe that money are the employers of this province, not the injured workers. Your friends owe that money, not these people here.

I want to speak to the Workplace Health and Safety Agency. The member from Etobicoke-Rexdale really took on in a vicious way the Workplace Health and Safety Agency. Let's set the record straight with reality. First of all, during the time the agency was in existence, when that responsibility for workplace illness and injury prevention was taken out of the WCB and put into the independent agency, administrative costs were lower than they had been while it was with the WCB. Serious injury and deaths were down. More workers and management were trained while the agency was in operation than in any other time under the responsibility of the WCB. That's the reality.

The reason you killed it is not financial and not because they didn't deliver. It's because injured workers and their representatives had half the seats on the board. You can't live with the fact that workers would get so uppity as to

think they have half a say in how that agency's run. That's why you killed it. It didn't fit your ideological agenda, and that's why you're continuing to attack workers under Bill 99.

The Chair: Further debate? Mr O'Toole.

Interruption.

The Chair: Order, please. Sir, please come to order.

Mr John R. O'Toole (Durham East): I will attempt just a couple of points for the record. With respect to the validity of the establishment of the royal commission, I think it's important to recognize that as far back as the very beginning of that commission, there was a recognition that the process was designed to fail. In whose opinion was the process designed to fail? I might point for the record at a very important, informed person. "It's clearly another attempt by this government" — this is in November 1994, the then NDP government — "to tilt things in the favour of labour." Now I think "tilt" is probably the word. What we are looking for is balance. That was said by the Liberal labour critic, Steve Mahoney. We recognize Mr Mahoney did a lot of work in that area, did have hearings —

Mr Christopherson: Yeah, another big friend of labour.

Mr O'Toole: — wasn't particularly a friend of anyone. I think he was in favour of good legislation perhaps. I'm not qualified to say.

But I want to read, this is the opinion of the day, a column from October 31, 1994, from the Toronto Star. This is just an editorial which attempts to explain the dilemma. By the way the chair of the commission was the ex-president of the federation of labour. I think he has a vested interest. It could be argued that he might have a conflict of outcomes. Who do you think he should be siding with? Those that pay the dues get the say, and he was elected to the position. I'd say the point could be made that he may have a determination of the outcomes. That was argued by others, not just me.

I'll read the editorial from the Star by someone perhaps more qualified than anyone here. It says, "Six months after Premier Bob Rae tried to step aside from the chaos at the board" — he at least recognized it, and I commend him for that recognition of chaos — "the royal commission still is stuck on hold and fighting over its own who should lead the 'pro-parade.'" That's true. Think of it. Think of the politics of it. All of our money raised was raised by you. Okay. It was raised by you, from your dues. Okay. So get the ball game here. The answer is a given. The answer they were looking for is a given. The answer is, Mr Christopherson told you, \$200 more a month. That's the answer. Well, the system isn't —

Interruption.

Mr O'Toole: Well, a case deserved should be responded to and respected according to the job and the conditions of the place of work.

1610

Mr Christopherson: You're cutting their income. What are you babbling about?

Mr O'Toole: From its perspective, of the three members two were pro-labour and one wasn't and the whole system was doomed to fail. The Liberals were going to cancel it. Clearly in the election that was their issue, and anything stated otherwise by Mr Hoy or Mr Patten is blatantly misleading.

All our governments also said very clearly the royal commission would be scrapped. In fact Ms Witmer, who was the critic at the time, said the findings of the commission would be considered.

Mr Patten: Could we get some Prozac?

Mr O'Toole: I'd be very pleased, Mr Patten, to move along to very specific amendment proposals and the debate to go along with them, but let's get off the rhetoric. Actually I could make the point that Mr Christopherson will probably be running against Mr Gord Wilson. Guess who he's going to be in favour of? So don't mislead anyone. I'm as much for the employee as you are. Don't think that you have the corner on anything. In fact –

Mr Christopherson: You don't know what you're talking about.

Mr O'Toole: What's your answer? More money?

The Chair: Order, please. Mr O'Toole. Colleagues.

Mr Christopherson: Get your facts right.

The Chair: I would remind all colleagues to address remarks through the Chair, please. Further debate?

Mr Bisson: Madam Chair, we were going to move on to the next amendment, but Mr O'Toole's comments are more than interesting. I just say this, first of all, every time a government member speaks I think more and more injured workers in this province see exactly where the government is at, that is, squarely not on your side.

He says that because the chair of the royal commission was Gerard Docquier, not from the Ontario Federation of Labour but past president of the Canadian section of the United Steelworkers of America, a union of which I am a member, somehow or other that would tip it in the favour of labour, and because of that he had somehow a conflict of interest. My God, everybody you appoint to every commission is tied with business. Do they have a conflict of interest when it comes to the outcomes of the findings on their commissions? I don't hear the government arguing that.

I think, quite frankly, you're demonstrating that this government is anti-worker, has a bias against workers, is pro-business and is going to do everything it can to kick workers in the teeth and help their employer friends. That's strictly what this is all about.

The Chair: Further debate on the motion? Are we ready for the question then? This would be the NDP amendment on page 10. Recorded vote.

Ayes

Christopherson.

Nays

Galt, Hoy, Maves, O'Toole, Ouellette, Patten, Spina, Stewart.

The Chair: Motion is lost. Yes, Mr Bisson?

Mr Bisson: I heard the naming of Mr Christopherson in the vote in favour. I did not hear my name.

The Chair: One moment. Is Mr Bisson able to vote today? Sorry.

Mr Bisson: Yes, I forgot.

The Chair: Shall section 19, as amended, carry? Recorded vote also.

Ayes

Galt, Maves, O'Toole, Spina, Stewart.

Nays

Christopherson, Hoy, Patten.

The Chair: Carried.

Moving now to section 20. Any debate on section 20? I'll put the question. Recorded vote. Shall section 20 carry?

Ayes

Galt, Maves, O'Toole, Ouellette, Spina, Stewart.

Nays

Christopherson, Hoy, Patten.

The Chair: Section carries.

Moving now to the amendment on page 11, this is a Liberal motion. Mr Patten, do you wish to present it?

Mr Patten: Yes. I have a motion to change paragraph 3, section 1, of the Workplace Safety and Insurance Act.

I move that paragraph 3 of section 1 of the Workplace Safety and Insurance Act, 1997, as set out in schedule A of the Workers' Compensation Reform Act, 1997, be amended by inserting the word "fair" after "provide" in the first line.

The word "fair" has been dropped from the original bill. The whole history of the workers' compensation program is based on a statement that was really the WCB's motto, which says, "Justice speedily and humanely rendered." By taking this out, I think it sends a strong signal. I know the government's going to say, "Well, it's redundant because programs are structured in such a way and statutorily fixed," but I would say that there will be all kinds of human decisions that will be based on the judgement of the board in one form or another, or anybody who's part of that particular system that calls for a sense of fairness. I believe it would be important to keep that word "fair" in the amendment and, in this particular bill, to add it, to provide fair

compensation and other benefits to those workers and to the spouses and dependants of deceased workers.

Mr Christopherson: As the Chair, you will know that this amendment is identical to our amendment that follows this one. Obviously both opposition parties are very, very concerned about the dropping of the word "fair" from the legislation.

I would like to ask the parliamentary assistant, for the record, why this government which speaks constantly of wanting to be fair and balanced — all the time we hear "fair" and "balanced," but every time you run into a piece of legislation where the word "fair" appears, you eliminate it. You did it with the Ontario Labour Relations Act; you took out the word "fair." Now with Bill 99, the new WCB legislation, you're removing the word "fair" again.

Parliamentary Assistant, would you please respond why you're taking the word "fair" out when you and your minister take such great delight in constantly saying you want to be fair?

Mr Bisson: What part of "fair" don't you like?

Mr Bart Maves (Niagara Falls): The reason Bill 99 removes the word "fair" from the purpose clause is that it's not necessary and is in fact redundant. The amount of compensation to which a worker is entitled is fixed by statute, both in the current act and the proposed act. By placing the word "fair" back in the act, it would suggest that there's some discretion in this area when in fact there is none. That's the explanation.

Mr Bisson: A little bit louder.

The Chair: Okay?

Mr Christopherson: I'm not finished.

The Chair: Okay. Sorry.

Mr Christopherson: I want to suggest to the parliamentary assistant that if that were the case and if the word "fair" made absolutely no difference in terms of whether it's in or out, then I think it's reasonable for the people of the province to look at the politics of this, because they understand politics too, and ask themselves: If it's a redundant word, when the government is already under attack from workers and injured workers and their representatives for being anti-worker, if it made no difference, wouldn't commonsense politics dictate that you'd leave it in there?

Mr Maves: As I said, in our view, if you place the word "fair" back in the act, it suggests that there is some discretion in this area when in fact there isn't any because it's statutorily set. I think when you're putting forward a piece of legislation, you have to take that into consideration and the legislation should be clear.

1620

Mr Christopherson: That doesn't wash, because you said it's redundant. The word "redundant" means that it has no effect, none whatsoever. Therefore I would argue that you could have left it in there and, based on your description of it being redundant, it would have made no difference at all. And if it made no difference at all, why on earth would you leave yourself so exposed to this kind of attack on a word that has such an inflammatory effect on those of us who watch you abuse the word "fair"?

I want to suggest to you the reason you're taking it out of here is that while there may not be any discretion around the actual dollar amounts, there are constantly interpretations and jurisprudence being put on to the WCB in terms of all decisions contained in there. I suggest to you that by having the word "fair" in the preamble, there are times when one could argue that fairness would dictate a certain outcome of a difference in interpretation around the bill, and you're taking it out because you want to make sure that as much as possible it's not a fair outcome that is derived from interpretations, but rather that the employers win, the WCB finances win, and the injured worker loses.

Therefore, I think you're taking it out because you want to tip the balance in those situations where "fair" may have an effect on the outcome of an interpretation. That's why you're taking it out of here. That's why you took it out of the OLRB. Quite frankly, where you and your government get off in doing that and continuing to say you want to be fair and balanced and looking people in the eye is beyond me. I don't know where you get the gall and the audacity to say you care about fairness, and then you take the very word "fair" out of this legislation, the same as you took the word "workers" out and you took the word "compensation" out.

The Chair: Moving to Mr Stewart — sorry. Excuse me, Mr Stewart. Mr Maves has a response, and then we'll go to you.

Mr Maves: I would only point out that in the amendment, the word "fair" would pertain to fair compensation. In fact, as I said before, the amount of compensation to which a worker is entitled is fixed by the statute, as it is now and as it would be later.

We weren't the only ones who thought that "fair" was redundant. In fact, the submission to Bill 165 by the Union of Injured Workers and Toronto Injured Workers' Advocacy Group, September 1994, said at that point in time, when Bill 165 brought in the word "fair":

"The introduction of the adjective 'fair' is subjective and not consistent with the statutory scheme of rights and obligations. WCB adjudicators have no authority to pay more or less than the law provides, whether they think it's fair under the circumstances or not."

We weren't the only ones to feel that way, and I thought that should be read in.

Mr Christopherson: Can I respond?

The Chair: There is a long waiting list of speakers. If you could do it very briefly.

Mr Christopherson: Just one comment, and that is that if the parliamentary assistant, in his previous comments, suggested that there was some discretion and that "fair" might apply, is he suggesting that the obligation to provide a healthy and safe workplace, the return-to-work provisions and the labour market re-entry are all open to discretion? Because if they are — and I think you'd have to agree they are; those are very subjective matters — then by taking out the word "fair," you're denying workers an opportunity to make a case that there's something about one of those three areas I've just mentioned where

the outcome is not fair to them. You've eliminated their ability to make that case.

Mr Maves: The "fair" in this amendment speaks to compensation; it doesn't speak to those other things.

Mr Christopherson: Compensation is also being rehabilitated. Compensation is also being returned to work as much as you can. Compensation is also making sure the workplace is safe after there has been an injury. We know damn well you're taking the word "compensation" out because you want to turn this into a private insurance plan. You're not interested in compensating; you just want to get rid of it.

The Chair: To Mr Stewart. My apologies.

Mr Stewart: I would like to direct a question, if I may. I believe that the word "fair" is probably one of the most overworked words in the English language.

Mr Christopherson: By your government.

Mr Stewart: What may be fair to me may not be fair to somebody else, and vice versa. To me, the word "fair" is extremely open-ended and it can do an injustice just as easily as it can do justice. It's much like the word "may." "May" can cost you many, many things. I believe that if we're going to have good legislation, we should have the words in there that will protect all people involved with it. The Liberal Party is the group that has suggested this word. I'd like Mr Patten's definition of the word "fair."

The Chair: Do you wish to respond, Mr Patten?

Mr Patten: I think I was next anyway.

The Chair: Actually, no, Mr Bisson, but perhaps it would be appropriate.

Mr Patten: My submission is that being fair — if someone is injured in the workplace and in truth they can no longer work, but for some reason they don't fit a category or they are not eligible and they have to live in poverty for the rest of their lives and their families have to suffer, I don't think that's fair.

Mr Stewart: I didn't ask you the circumstances. I asked you what your definition of the word "fair" is, not whether it's — we've heard the word "justice"; we've heard many different words. You're asking us to agree to a word and put it in this legislation. I want to know what your definition of the word "fair" is.

Interjection: He told you.

Mr Stewart: No, he didn't at all. He said maybe it's fair to give you more money, maybe it's fair to take money away. I don't know. You tell me the word "fair," because it is very open-ended.

Interjection:

The Chair: Order, please. Do you wish to respond, Mr Patten?

Mr Patten: To me, being fair is being just. You have to use other words to describe a word. If you're going to define it, you have to use other words. It's being just; it's being compassionate. In the context of this particular bill, you are compensating someone who has, let's say, through no fault of their own been injured and is now not able to work in part, or perhaps not at all. In that case, the bill did provide for a fair review of situations where people would be compensated, and they would be compensated so that

they could live with a degree of dignity in their lives. In the context of this bill, that's the way I would describe it.

Mr Stewart: I could ask somebody outside this room or out on that street what their interpretation of the word "fair" is, and I would suggest that they may use those words you used or may not use those words that you used. That's the difficulty with this particular situation. It's very open-ended. It's a word that I believe down the road could create problems for the people.

Interjection:

The Chair: Sir, when a question is being directed clause by clause, because we're in the midst of debate, if you or anyone else interrupt, it breaks the train of thought not only of the questioner but of the person who's required to respond. I would ask you please to respect that there is a movement of thought back and forth here.

I don't know if you were able to hear the end of that question or if you wanted to respond.

Mr Stewart: In my case, I think it's been proven to me that the word "fair" is extremely open-ended. Nobody really has a true meaning for what the word means, because the interpretation is so different from one person to the other. That's why I have difficulty with this type of word, because I believe it could create as many problems for the folks as it could help the folks.

The Chair: Further debate?

Mr Bisson: A couple of things. First of all, it's the first time I've heard an argument trying to be made that utilizing the word "fair" in a piece of legislation could lead to an injustice. It really is mind-boggling. I say again, every time the government members pontificate on the position of their government on this legislation, if it doesn't demonstrate to injured workers that this government is anti-worker, anti anything to do with the working people of this province, I'll tell you, nothing will. I think I'm going to take all this, put it in Hansard and travel it around the province just to show them how anti-worker you are.

I want to go to the parliamentary assistant. I want to try to follow what your logic is here, because I really don't think it's very solid. You said "fair" is unnecessary when it comes to being entered into this clause because it makes no difference, it makes no impact, on how this act is applied. That's your first comment.

Mr Maves: I didn't say that.

Mr Bisson: You'll have a chance to clarify, because I wrote almost verbatim what you said, and if you're wrong, I want you to correct it. You said "fair" is unnecessary because it makes no difference how the act is applied. Then you went on to say that to put it in would suggest that there is some discretion on the part of the board about how it applies policy. How do you balance those two things off? Those two comments are contradictory.

1630

Mr Maves: I didn't make those comments.

Mr Bisson: My specific question then is, would putting "fair" in the act make a difference, in your view?

Mr Maves: No. If you make this amendment, as I said before, the word goes before "compensation"; they're talking about "fair compensation." As I said before, the

amount of compensation to which a worker is entitled is fixed by statute. It's fixed by statute now and it's fixed by statute once Bill 99 comes in. Therefore, if you add the word "fair," a subjective word, it suggests there is some discretion, but as I said, those amounts are statutorily fixed, so there's no discretion.

Mr Bisson: I think I'll come back to the point, because again that's a contradiction. You're saying that the board, when making a decision either at the adjudication level or at the hearing or WCAT level, has to make their decision solely based on policy and they don't have to take into context — I shouldn't say that, but the word "fair" in the existing legislation has no bearing on how much an injured worker is going to be paid. That's basically what you're saying. On the other hand, you're saying that if you put it in, it'll give them some flexibility.

What I'm saying is that there's a contradiction in what you're saying. Either you think that "fair" doesn't mean anything, or you do. Which one is it? Do you think putting "fair" will give the board some flexibility, or do you think taking it out will take out whatever flexibility we now have?

Mr Maves: There isn't flexibility.

Mr Bisson: There isn't?

Mr Maves: The rate is statutorily fixed.

Mr Bisson: So you're saying there is not?

Mr Maves: That's correct.

Mr Bisson: Are you saying, then, that if you kept the word "fair" in the legislation, it would somehow give some kind of discretion to the adjudicators and people at the hearings at WCAT level?

Mr Maves: Perhaps it might suggest that to somebody, but it wouldn't in fact, because the rates are statutorily set.

Mr Bisson: So you're saying if you put the word "fair" in, it would have no bearing on the outcomes of decisions of adjudicators, hearing levels and WCAT level, when it comes to dealing with benefits, whatever those benefits might be? In other words, leave it in and it won't make any difference.

Ms Marguerite Rappolt: I could just suggest that I think it is the placement of the word "fair" in front of the word "compensation," and "compensation" refers to the benefit level defined by statute in the act now and the new one.

Mr Bisson: Yes, it refers to the policy manual.

Ms Rappolt: The level which —

Mr Bisson: That was set out in the policy manual. I understand that. The question I have is, and I've got to come back to it, if right now the act reads "fair compensation," and we take out the word "fair," will it in the end have a bearing, in your view, on the flexibility of adjudicators to make decisions on setting levels of compensation? Will it, yes or no?

Ms Rappolt: From a policy interpretation, the answer would be no, because the term is "fair compensation."

Mr Bisson: If it's no, then, to the parliamentary assistant, I come back to the point that Mr Christopherson makes. If your policy people and your leg counsel people are telling you, Mr Maves, that taking the word "fair" out

is not going to make any difference, why take it out? Why inflame the issue even further? Why not at the very least show these injured workers that you're trying to seem as if you're fair? Why not leave it in if it makes no difference?

Mr Maves: Counsel for the ministry will respond on the legal implications.

Ms Sherry Cohen: In my view, "fair," when it modifies "compensation," refers to the quantum. It refers to the level of the benefit which was statutorily fixed. However, in the act there are still the existing principles of real merits and justice of the case and the benefit of the doubt. Perhaps that's what you're referring to.

Mr Bisson: I'm driving at that, because I'm somewhat familiar with the existing act.

Ms Cohen: And those provisions are in the bill.

Mr Bisson: But the point I'm getting at is, if you left the word "fair" in, would it make any difference, in your view, to the level of compensation issued by an adjudicator?

Ms Cohen: It's internally inconsistent, because it implies a discretion which the adjudicators don't have when it comes to determining the amount of the benefit. That's why it was removed, because one of the objectives in this bill is to make clear, plain-language, modern workers' compensation legislation.

Mr Bisson: Let me suggest the following: I don't pretend to be the expert on compensation, but I've been dealing with workers' compensation claims for the better part of 15 years. I've been before the board at all levels, and I can tell you that in a number of cases, especially at the hearings level or the WCAT level, you argue when you go before them, when it comes to the implementation of those policies, that the board did not take into consideration what is fair. We've utilized that at the adjudication level.

I'll give you an example: chronic pain. I think chronic pain will describe it better than any other one. For the members of the government side or others who may not understand what that policy is all about, we give chronic pain on the basis that there is no organic finding of an injury. In other words, a person fell, a person lifted, hurt their back, their arm, whatever it might be, and the person has symptoms that are inconsistent with the organic finding. In other words, you cannot give compensation under the regular part of the act because you can't find an organic finding.

So at one point WCAT decided to implement a policy of putting in place what's called chronic pain. That deals with giving the board the flexibility to be able to assess compensation in the case that the injury is incompatible with the organic finding. In those cases, when you go before the hearings officer or you go before WCAT, they've got all kinds of flexibility, because more times than not what they're awarding is a partial pension. They have a certain level of benefit that they can assess to the injured worker that is, I would argue, at best not very scientific when it comes to really pegging: Is this worth 20%, 5%, 25%? It's really not as objective as we think it is. So what happens is that when we from the injured

workers' community side go before the hearings officer, we say, "It is incumbent upon the board and it's incumbent upon you as a hearings officer," or WCAT, "to make sure that whatever you do, it deals fairly with the merits of this case." I argue that if you take "fair" out, it really weakens my argument when I go before the hearings officer.

Ms Cohen: You may be expressing the argument in terms of "fair" as it exists in the purpose clause, but really what the adjudicators or the tribunal members are applying is the substantive provision of the act that gives them the authority to do just what you have described, and that's found in the principles of benefit of the doubt and real merits and justice of the case. The purpose clause is used as a guide of interpretation.

Mr Bisson: That's right.

Ms Cohen: As a legal matter, in and of itself it can't create any legal rights or obligations.

Mr Bisson: I understand that.

Ms Cohen: So I think you're using the word "fair," but it's really benefit of the doubt and real merits and justice of the case. That's where they derive their authority to make those decisions.

Mr Bisson: But the purpose clause in any act is to set out, as in the title, the purpose of the act. If you take "fair" out of that section of the act, it has some bearing, I believe, in the end on how hearings officers and WCAT people will be able to deal with particular claims.

Ms Cohen: But as a legal matter, it doesn't confer any authority on the adjudicators. That's derived from the other provisions.

Mr Bisson: It certainly has influence, is my argument. I go back to the parliamentary assistant. If the parliamentary assistant is saying that his government's position is that removing the word "fair" will not make any changes when it comes to how the act is interpreted and how it's applied in a case of assessing benefits, why not leave it in? At least you're going to be telling these people that you listened somewhat and you're prepared to leave at least one part of the act in place that gives them some comfort. Why not do it?

Mr Maves: I've answered that already by saying that in our view, if you place the word "fair" back in the act, it suggests there is some discretion in this area, when in fact there isn't.

Mr Doug Galt (Northumberland): It's interesting to hear the debate over the word "fair." Mr Stewart expressed a lot of what I was wanting to put on the record. He questioned and got a rather loose definition of "fair." I think this brings up the point that what I'm hearing the opposition and the third party argue for is for the legal profession, because what a heyday they'll have with the word "fair."

Mr Christopherson: It's already there.

Mr Galt: Yes, and look at what's been going on: all kinds of opportunity to play games, go through appeals, while the injured worker has to wait it out. Who's getting hurt? The injured worker gets hurt while the lawyers play the game. I think you're encouraging very loose kind of

legislation and we're trying to tidy it up and make for better legislation that certainly wasn't there by having that kind of word in, when in fact you have excellent criteria for when injured workers should be compensated for those injuries.

1640

Interjection.

The Chair: Mr Bisson, kindly do not interrupt.

Mr Bisson: It's just hard to take, Madam Chair.

The Chair: Further debate?

Mr Pat Hoy (Essex-Kent): I'm completely comfortable with the use of the word "fair" as it pertains to this bill. It was in the prior act. The government, we learned on the first day of clause-by-clause, was going to spend a million dollars on a name change. Here we're asking them only to maintain a word that was in the existing act. As I said, I'm completely comfortable with leaving the word "fair." It makes eminently more sense than if one were to take the reverse view and say "unfair" compensation. Perhaps the government would prefer that word.

I would suggest that if the government has such problems with the word "fair," it should probably not appear in any of their campaign literature in any subsequent elections, because it would be viewed by those people with some difficulty, that they did not understand the word "fair." But it was in the prior act. I think it's quite symbolic, first of all, to injured workers, and I think it also enhances this piece of legislation by leaving the word "fair" in.

Mr O'Toole: This is indeed a very profitable discussion. My sentiment, obviously, is to support the word "fair." That's my sentiment.

Applause.

Mr Christopherson: What's your vote going to be?

Mr O'Toole: After listening to the wise legal counsel, if I may be so generous —

Mr Bisson: I may have to withdraw my applause.

Mr O'Toole: No, no. Look through the interpretation, the purpose clause itself, both in the old act — in fact, I did that early on. The purpose and definition clauses give you much more a flavour of clarity of the intent, the return to work, the languaging.

Interjection.

Mr O'Toole: You're right. Its placement is rather peculiar, because if I look in the purpose clauses, it says, "to promote health and safety in workplaces and to prevent and reduce the occurrence of workplace injury and occupational diseases." That's very clear. The intention is there to "reduce" injuries, to "prevent." Those are very operative words.

Then "to facilitate the return to work and recovery of workers" — "facilitate" is a pretty encompassing word — "who sustain personal injury arising out of and in the course of employment or who suffer from an occupational disease." Very clearly, occupational diseases are going to be covered and all that.

Then it goes on to say, "to provide fair compensation."

After listening to the legal counsel, I'm going to ask a question, perhaps of my own parliamentary assistant. I'm

not sure. Could I propose an amendment to Mr Patten or to the Liberal Party?

The Chair: Unfortunately, those amendments are out of order.

Mr O'Toole: Here's what I'm trying to imply in my argument, for the record: If I were to understand that this would not embellish the legal position for a case of argument, by putting it specifically in the definition section, I'd be happy to support it. But if it opens up another legal entitlement or entanglement, that's exactly what has happened in the past.

I had case workers tell me personally that the lawyers were making all the money. I'm not a lawyer, and I'm upset to see that there were case workers — the system was so convoluted that it took people like Rick Williams and others to solve these problems. Clarity in the act and reducing ambiguity is what I would like to support.

I return to my original premise. I indeed support the fair treatment of any injured worker. Our legal counsel told me, told each one of us, that does not diminish the case merit, in or out. I would like to perhaps call a couple of minutes' scum or recess to be more than satisfied that the inclusion — I'm going to ask one final clarification of the lawyer. Would the inclusion enhance the entitlements, diminish the entitlements or leave the entitlements precisely the same? If they're precisely the same, I want to be harmonious. I would like to move forward in a progressive, positive way, even if only in sign language.

I've given you three choices.

Mr Christopherson: We'll give you sign language.

Mr O'Toole: The applause will do.

Ms Cohen: The word "compensation" as used in this bill refers to the monetary benefit an injured worker receives as a result of a workplace injury. There is a difference in the wording, if you go through the bill, between the word "benefit," which has a broader meaning, and the word "compensation." This clearly refers to the amount or the quantum, the level of the benefit, not eligibility, not duration, not anything else: the amount of the benefit, which is fixed in statute. To put "fair" in there is inconsistent with the word "compensation" as used in the bill because it implies it can change, and it can't change. The amount of compensation cannot change under any circumstances.

But in terms of eligibility or duration, that is what I was referring to before, where board adjudicators or tribunal members can decide, "It's not 100% clear, but we think it's fair in this context and the circumstances of this case that this injured worker be granted entitlement." That is when they use the substantive provisions of the act, whether it's the benefit-of-the-doubt provision or whether it's the real merits and justice of the case.

That's how they're adjudicated. You can call it fair or you can call it real merits and justice of the case, but in the end it's the same legal result, and that's not in the purpose clause, that's in the act itself.

Mr O'Toole: And you're well schooled, perhaps Os-
goode or whatever. What I need to know is this. You have just told me that adding the word "fair," because it's

followed by the word "compensation" — I'm a layperson — and that the compensation is fixed in statute, then by nature it's redundant. It implies some ambiguousness. It's the hole in the wall, the hole in the dike, that you guys will spend the next \$5 million on wasting injured workers' time through an appeal and interpretive process.

The Chair: Mr O'Toole, address your comments to the Chair, please.

Mr O'Toole: If we want an act that's fair and clarified, I'm for removing any sensitivity to ambiguousness.

Interjection.

Mr O'Toole: Mr Patten, with all respect, I go back to saying, I would ask if we could have a couple of minutes recess just to scum among ourselves.

The Chair: There is an opportunity when we get a little closer to the vote perhaps for that. Right now, we'll continue with further debate. Mr Christopherson, please.

Mr Christopherson: What an interesting submission. I'd like to ask Mr O'Toole, based on his comments, since he is clearly stating that he has some sentimentality around the word "fair" — which is nice, but we'll be looking more at your vote than your sentimentality. In terms of that great sensitivity you have over the word "fair," can I ask you whether you think it's fair that employers who have a legal obligation to pay for WCB compensation receive a 5% gift but that the injured workers who receive compensation when they're hurt on the job are going to get 5% less? Do you think that's fair?

Mr O'Toole: I think that's an extremely focused question, and I would ask in return —

Interjections.

The Chair: Order.

Mr O'Toole: With our changes in Bill 99, the level of benefit for our injured workers' entitlements is higher than any other province. I believe that is fair.

Mr Christopherson: My question was, do you think it fair that employers are getting a rate reduction, are getting \$6 billion back, and injured workers are going to get 5% less? Do you think that's fair?

Mr O'Toole: Madam Speaker, this is a fair debate.

The Chair: Colleagues, I remind you both or any other colleague to address your comments through the Chair, please.

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Mr O'Toole: Honestly and sincerely, I believe that fairness is a broad term in this particular question. By that I mean, rhetorically, is it fair that Ontario employers pay the highest rates or premiums on average? The only one that's higher is Newfoundland. Is that fair? We're trying to be fair. Fair is some balancing point. Don't you see the balance in fairness? Fairness is not as clear as yes or no; it's an interpretive clause in respect of saying, we should operate in a climate which — okay, if I reduced the cost of doing business in Ontario, I would increase the revenue for workers' compensation. Why? Because the larger the payroll at General Motors or Chrysler or Stelco, the more they're going to pay to WCB. So if we reduce the premiums, we could actually increase the revenue for the WCB funds, the investment funds, by being competitive. By

raising them, we chase employers to New Brunswick, reducing the overall payroll in Ontario, reducing the amount of the WCB investment fund.

In all honesty, Mr Christopherson, I can't answer your question as simply as you've asked it. I want there to be a climate for investment and opportunity, and in that respect, yes, I guess we should give back. An employer in Ontario should not pay any more and certainly no less than a similar employer in any other province. That's fair.

Mr Christopherson: I've got to be getting older. As you were going through your explanation, what came to mind was the old comic who was on TV — I think it was Professor Irwin Corey; remember him? — with the hair all over the place and he had the sheets and he was describing how the world operates, and at the end of it he was confused, the whole world was confused. That's exactly the way I felt at the end of your answering my question.

I think you'd be better off, Mr O'Toole, just to say that, yes, you think it's fair that your employer buddies are getting a gift and injured workers are getting it in the teeth. At least you'd be being honest about it rather than offering up all this nonsense about sentimentality and the world global economy, for God's sake. None of that matters a hoot to an injured worker who's laying flat on his back because his back is broken, and he's getting 5% less than he did when you brought in Bill 99 and his employer is getting \$6 billion.

I also want to pick up on a point to give credit to Mr Hoy. I think he made a fascinating, interesting point to both Mr Stewart and Mr Galt, who went on at great length about — Mr Stewart's was quite interesting, that somehow by applying the word "fair" you might end up with an injustice at the end of all that. It's all because the word is so ambiguous, to use Mr O'Toole's word. Yet your government, and I bet in your speeches, constantly talks about "fair" and "balanced." If it's a word that has such a lack of clarity, why do you throw it around? Why?

You do it because it means to most people that there will be an element of fairness. You can play all the little games and split hairs around the meaning of the word "fair", but your government loves to use the word "fair" because you know what that implies to people. But boy, when the rubber hits the road and you've got a piece of legislation where we're not suggesting you put it in where it didn't used to be but that you leave the word "fair" in, you're supporting taking it out because somehow it might do some damage at the end of the day, and you expect people to believe that nonsense.

Interjection.

Mr Christopherson: I'll listen to your turn when it comes.

The Chair: Order. Mr Christopherson has the floor. Comments are to be directed through the Chair, please.

Mr Christopherson: I just want to ask legal counsel a question. You made a statement that sounded rather definitive, that the quantum compensation cannot be changed in any way. But it is being changed in this bill — it's being reduced — and it could be changed further by any government action in the Legislature. Is that not correct?

Ms Cohen: It can be changed by the Legislature, but the board and the tribunal or a court could not amend the legislation.

Mr Christopherson: I didn't want to leave the impression that somehow there was an 11th commandment that Moses brought down that said, "Thou shalt pay compensation rates" and states the amount. The fact is that it's up to the government of the day.

Ms Cohen: It's the sovereignty of Parliament.

Mr Christopherson: Right, and it's the sovereignty of Parliament this government has chosen to use to reduce the benefits. I might suggest that another reason you want to take the word "fair" out is because, as time goes on, if we're unfortunate enough to stay governed by you people, God knows what the rate will be.

We had submissions from some employer groups that 85% wasn't enough, that it ought to go down to 80%. We even had one submission in London, from the local chamber of commerce, that it ought to go to 70%. I think there are members of this government who would think that is fair. They don't want to be subjected to the test of fair compensation, and that's another reason they're taking it out of here.

I want to ask the parliamentary assistant, if he believes and supports his minister in saying that you want fair and balanced legislation and fair and balanced compensation — the specific of whether the compensation can be mitigated in any way is correct; I am not questioning the legal advice that has been given. But in the preamble, where you're stating the purpose in the purpose clauses, why would you be opposed, since you're prepared to say it anywhere, to leaving in the term "fair compensation"? That may not necessarily be able to affect the rate without a change in the law, but it does state that one could stand up and say, "The law says it's supposed to be fair, and if you're only giving me 70%, that's not fair." Do you not think it's appropriate, if you care so much about "fair," to leave it in there with regard to that reference? Never mind the legal interpretation.

Mr Maves: As I said, "fair compensation" would suggest there's discretion, and there isn't in a statutorily fixed item. If in the future a government of any stripe wanted to bring in legislation changing the rates further, it would have to have full movement of a bill and the full breadth of the debate that would go with it.

Mr Christopherson: With respect, Parliamentary Assistant, I am suggesting to you that you want to take the word "fair" out in the hope that it will reduce your embarrassment when you decide to reduce these rates even further in the future, which I have no doubt you're going to do. If you're saying you're not afraid of the word "fair" in terms of describing compensation, where else, I ask you, would you be prepared to put the word "fair" to at least show that when you say something you are prepared to put it in law? Where will you add the word "fair" in here to show you are at least respecting and recognizing the rights of injured workers to have fair compensation? Where would you put the word "fair" to show that?

Mr Maves: "Fair" can't be in the purpose clause for compensation because it's statutorily set. I don't think you would want it in an act. The lawyer can assist on this. If you put it somewhere in an act and all of a sudden started giving discretion to adjudicators on how much they give each different person, I don't think it would be possible to have an act like that because it would be terribly inconsistent.

Ms Cohen: When a benefit is granted by legislation, the benefit is set by the legislation. I'm not aware of any federal or provincial legislation that creates a scheme granting benefits which says, "as determined by the entity that gets to adjudicate who's entitled." That would be quite —

Mr Christopherson: What about the Criminal Injuries Compensation Board?

Ms Cohen: But that's a discretionary benefit. That's not the same type of thing as a right once you've determined eligibility. I think the criminal injuries compensation scheme is somewhat different from an insurance scheme.

Mr Christopherson: Well, it still provides for benefits in certain circumstances and leaves the discretion up to the board.

Ms Cohen: But it's compensating for pain and suffering rather than —

Mr Christopherson: But it's compensation. My only point is, and I'm certainly not going to be stupid enough to get into a legal debate with a lawyer —

Ms Cohen: It's not the Canada pension plan, employment insurance, social —

Mr Christopherson: I think it's fair to say that the concept that levels of compensation are set by judicial and quasi-judicial boards and entities is not that unusual. That in and of itself is not an unusual concept.

Ms Cohen: For this type of scheme, it would be unusual.

Mr Christopherson: But overall the idea is not. Anyway, I don't want to get lost into that.

I want to come back to this: If the parliamentary assistant continues to use the word "fair," I want to know where he's prepared to put it in here, or is he prepared to recommend to the Minister of Labour that she stop using the word "fair" since you're not prepared to back up your words with legal action?

1700

Mr Maves: One place has been suggested for "fair," and it's in this section. I've given my answer several times on why the government is opposed to it being there. It's the same one that the injured workers gave in 1994.

Mr Patten: I guess the WCB motto will change, because it says "Justice speedily and humanely rendered." What does that mean? Should that be out of there? The compensation is already set. I guess they shouldn't have a motto, or that motto doesn't mean anything.

Once somebody is eligible, you're right: Given that there is a correct assessment, that's it, that's your compensation. But what happens in cases where people feel it isn't fair? They go to the WCB or wherever they go and

they challenge that. They say the doctor didn't really do a good analysis or his diagnosis was poor and, "We have a second opinion" or a third opinion or whatever the hell it is, and they challenge the decision, which I believe is still there; there's still an appeals mechanism. Then that appeals mechanism takes a look at it, and it seems to me that what they're looking at is, was that a fair decision? If they change the compensation level, they'll say: "We believe this is fair compensation now. It wasn't before, because what wasn't taken into consideration was what these other doctors were able to propose." In that particular sense, I say it's still fits.

Wouldn't you say it would fit under those circumstances, that that's a relative thing? It's also the eligibility. You qualified compensation with the eligibility — I agree with you — and that is often what is challenged. If the adjudicator or the appeals board looks at it in terms of fairness, they have to have some value to say, is this fair?

Ms Cohen: They may say, "We don't accept this doctor's report; we accept this doctor's report," and they may use the word "fair." But really, as I say, what they're using is: "We're going to give you the benefit of the doubt. We think, in the circumstances of all the evidence, we're going to select the doctor who's in favour of the diagnosis that will give you the compensation." Once they make that decision, they send it back to the board, and the board implements it by applying the amount of compensation set in the act. That's the distinction.

Mr Patten: Anyway, I still feel the same way.

My other point, related to Mr Christopherson's point, is that it seems to me that what you probably would agree with — Mr Maves, I have a suggestion. It won't go anywhere, because we can't make amendments to amendments. You would probably say you would agree with "to fairly provide compensation." Would you agree with that statement, "to fairly provide compensation"?

Mr Maves: I don't know at this point in time. What would be the impact of "to fairly provide"? That's in the manner in which they're provided. I don't know. I'm not a lawyer. I can't interpret how that would be interpreted.

Again, one of the goals of the act is to clean up the legislation to make it understandable and clear. When you're putting in subjective terms, no matter where you put them in, it takes away that clarity.

How the act is administered, with the exception of levels of compensation, is covered in section 113, where it's by the principles of merit and justice.

Mr Patten: That's your interpretation. You've restated it a number of times. All I'm saying is that if you put it in, according to the legal arguments, what "fair" does acknowledge, as I think this through even further, is that it ain't necessarily a perfect system. My staff just gave me something:

"The legislation that we're putting forward before the House today will create a viable workplace, safety and insurance organization that will be legislation that is able to deliver fair and generous benefits." That was the Honourable Elizabeth Witmer.

Mr Hastings said earlier that there is no perfect system. I agree. There is no perfect system. As I look at it now, I'm even more convinced that the word "fair" does provide for an imperfect world; otherwise, why would you have appeal mechanisms and why would you have the opportunity for people to challenge a decision? We have those things. Therefore, "fair compensation" means — or you could use the term "right compensation." All putting a qualifier in means is that it has to be justified, it has to be presented and it has to be supportable in order to change what was perhaps awarded. All I'm saying is that "fair" historically has been there. It acknowledges an appeal mechanism and it doesn't change the justice, which is part of the motto of the WCB, that should take place if it hasn't taken place and it is found out to be justifiable to make changes to the original award.

Mr Maves: The question of principles of justice and everything else in the act except levels of compensation is taken care of in section 113 of the bill.

Mr Bisson: I listened intently to what I thought was a warming of the position of the government by the suggestions Mr O'Toole brought forward for a while there. It almost sounded as if we were starting to convert the unconverted when it came to the issue of fairness. But the argument he made was most bizarre. He argued that if putting the word "fair" in the purpose clause made no difference, he would support it. If it gave workers or anybody else an unfair advantage, as he put it — for the government, that means giving workers better benefits — he wouldn't be in favour of it. By the member's own admission, you're saying that if the word "fair" means workers are going to get a fair shake, you're opposed, and if makes no difference in the status quo you're creating in this bill, which will be that workers get it in the ear and employers get in the pocketbook, you're in favour of it. That's basically what the government member is arguing.

I'm going to go through the Hansard of today and Monday and pull all these Hansard quotes and make sure that as many injured workers and workers in this province as possible get to see what the government has to say, because it's truly unbelievable. We heard the government say earlier that using the word "fair" could lead to an injustice. Wow. I can't get over it. It really comes down to the fact that this government has made an ideological decision, and the ideological decision is that you're standing with employers and you're turning your back on workers. It's as simple as that.

Why don't you guys just come clean and tell us that's what you're doing, and we'll move on. If you really believe in fairness, how can you be opposed to putting the word "fair" in the purpose clause about how we deal with this act? You can't have it both ways. You're the Conservative Party, not the Liberals.

I have a question to the parliamentary assistant.

Mr Christopherson: On a point of privilege, Madam Chair: I note that the former parliamentary assistant, Mr Baird, has returned. I wonder whether that was because Mr Maves needs some help and he's the cavalry, or has he been a bad boy again and sent back to labour?

The Chair: Come on. That's out of order, Mr Christopherson, as you well know.

Mr John R. Baird (Nepean): I heard you were going to be making some remarks, so I wanted to benefit from your wisdom.

Mr Christopherson: I hope you won't run out then.

Mr O'Toole: I would like to conclude my remarks by responding very similarly, but also reflecting on what has been said in the debate and Mr Bisson's point that he has some sort of ability to transcend anything I'm saying or thinking. If he thinks he knows what I'm thinking, then I'm not sure he's able to think.

Mr Bisson: There are places in your mind that I would be afraid to dwell on.

Mr O'Toole: I'd ask Mr Bisson the question — I'm going to ask a series of three questions, and at the end of that period, I'm going to ask who said them.

Is it fair to take \$1.65 billion out of the investment fund and put it into operational funds in the WCB? Is it fair to take the investment for the future liability and risk and move it into operational? That's not just hypothetical. It's an actual —

Mr Bisson: Is it fair that Conrad Black took the pension dollars of workers to invest in his business?

The Chair: Order, Mr Bisson. Mr O'Toole has the floor.

Mr O'Toole: Chair, could you take care of the noise from this trivial little butterfly over here?

Mr Bisson: I've been called a trivial little butterfly.

The Chair: Your manners, please. Mr O'Toole has the floor.

Mr Bisson: I don't fit the description of a butterfly.

Mr O'Toole: Is it fair to remove 7% from the compensation formula for injured workers? Is it fair to remove \$18 billion through the Friedland formula adjustment? All three of those removals, reductions and changes were made by the previous government, the NDP.

Interjection: Two wrongs don't make a right.

Mr O'Toole: No, they were three wrongs.

In my concluding remarks, I still say that fairness is making sure that injured workers are receiving what they're entitled to receive according to the legislation, and to remove as much confusion and ambiguity from the legal or due process as possible.

Mr Christopherson: Why don't you take a 5% cut for your family?

Mr O'Toole: Maybe you don't recall the legislation; I wouldn't be surprised. We did take a 5% pay cut.

I would ask the Chair to grant us a five-minute recess just to convene. I'd like to speak to my peers.

The Chair: Probably the best point to do that is when we come to the vote. Further debate?

Mr Hoy: I know Mr O'Toole wants to ponder the word "fair." I hope he comes to the same conclusion we do. I'm looking at the minister's statement. As Mr Patten pointed out, she used the word "fair." I haven't read it, but I've scanned it very quickly, trying to find the word "fair" in other parts of her address to the House. She did use it at least one more time, but not only did she say "fair," she

said "more fair." We are not suggesting in our amendment that it be "less fair" or "more fair," which I think is quite something. It is simply the word "fair." Certainly on this side our arguments far outweigh those of the government.

Mr Bisson: As a final comment, I guess the vote will demonstrate where the government is for the record. If they believe in the principle of fairness, they will vote in favour of this amendment or our NDP amendment. If they don't believe in the principle of fairness, they will vote against it.

The Chair: Further debate? Seeing none, are we ready for the question?

Mr O'Toole: I call for a recess, Madam Chair.

Interruption.

The Chair: Sir, would you please allow us to conduct our business. It's difficult to hear.

Mr O'Toole: did you want to call for a recess at this point?

Mr O'Toole: Yes.

The Chair: Five minutes?

Mr O'Toole: Fifteen minutes.

The Chair: This committee stands recessed and will reconvene at 5:25.

Mr Christopherson: On a point of order, Madam Chair: When all of a sudden do members get to start auctioning off how long recesses or breaks are going to be?

Mr Steve Gilchrist (Scarborough East): The standing orders say up to 20 minutes.

Mr Christopherson: On the vote. We're not at that point.

The Chair: Yes, we are at the vote.

Mr Christopherson: Mr O'Toole was speaking.

The Chair: My understanding is there is a 20-minute recess allowed in preparation for a vote.

Mr Bisson: Hang on, he was speaking. Are we on a vote now?

Mr Christopherson: Did she call the vote?

The Chair: I'm sorry. I did bring us to the vote.

Mr Christopherson: I want a recorded vote too. Have you got that?

The Chair: Yes. All right, we stand recessed.

The committee recessed from 1715 to 1728.

The Chair: All right, colleagues, the time for debate is finished and we're about to vote on paragraph 3 of section 1, the Liberal motion on page 11.

Mr Hastings: Point of order.

The Chair: We have to finish the vote before we go to the point of order.

Mr Hastings: Then after the vote.

The Chair: Yes, certainly.

It's a recorded vote.

Ayes

Christopherson, Hoy, Patten.

Nays

Baird, Galt, Gilchrist, Hastings, Maves, Spina.

The Chair: The motion is lost.

Point of order, Mr Hastings.

Mr Hastings: The point of order I wanted to raise is that M. Bisson raised the question of how fair is fair, how much rain is there outside, so I would like to ask M. Bisson, or certainly make it clear, in terms of fairness, how it is fair that the NDP in 1992-93 managed to reduce the premiums to employers by nearly 7% when in fact we've reduced them by 5%? To me that would be a sheer gift to their corporate buddies.

The Chair: Mr Hastings, our time for debate on that motion has ended. I'm sorry, it's not a point of order. We must move on to the next amendment. We're moving now to the amendment on page 12. This an NDP motion. Mr Christopherson, did you want to withdraw this motion? It is identical to the motion before.

Mr Christopherson: Only if you're going to rule it out of order. Otherwise, I'll place it.

The Chair: You know that I do have to do that. Thank you. It's withdrawn.

Mr Christopherson: No, not voluntarily. You've ruled it out of order. There's a difference.

The Chair: Okay. Moving then to the next amendment, on the top of page 13, this is a government motion.

Mr Maves: I move that paragraphs 3 and 4 of section 1 of the Workplace Safety and Insurance Act, 1997, as set out in schedule A of the Workers' Compensation Reform Act, 1997, be struck out and the following substituted:

"3. To facilitate the re-entry into the labour market of workers and spouses of deceased workers.

"4. To provide compensation and other benefits to workers and to the survivors of deceased workers."

The amendment corrects a drafting error which omitted the children of a deceased worker from paragraph 3, now captured by the use of the term "survivors," and corrects the inadvertent omission of the word "workers" from paragraph 4. The reordering of paragraphs 3 and 4 appropriately reflects the new priorities in the legislation. Prevention first, return to work where possible, labour market re-entry where necessary and compensation as required.

Mr Christopherson: Could you just state again please what the rationale is in paragraph 4?

Mr Maves: It was previously limited to a spouse. We inadvertently left out children. By using "survivor" it includes children.

Mr Christopherson: You're replacing the existing 3, "To provide compensation and other benefits to those workers and to the spouses and dependants of deceased workers"? Why would you change the language at all?

Mr Maves: We inadvertently left out children and it's supposed to include both.

Mr Christopherson: I'm sorry, I just want to be clear. I don't have a point of argument yet. I am not clear on what's happening. Under Bill 99 as you presented it, it does state "spouses and dependants of deceased workers." I would think that means children, and yet you're arguing you need to amend your proposed Bill 99 to provide for children. I am a little unclear.

Ms Rappolt: Perhaps I could help Mr Christopherson in the definitions. The definition of the word "dependants" does not include children. It has another meaning than children. It is "survivor" that includes the spouse, the dependant and the child. That's why we substituted "survivors," in order to have the full meaning.

Mr Christopherson: So it's under the definition of "dependants." Give me just one second then. All right.

Mr Patten: I had a similar question. I gather that this is to enhance, not to restrict.

Mr Christopherson: Let's be clear: This is not a new enhancement; it's to clarify the original intent in the existing law.

Mr Maves: That's correct. It originally had children and we wanted to make sure it had children.

Mr Christopherson: God forbid there should be an enhancement anywhere for people.

Mr Bisson: I just need some clarification here because as it reads now that particular section says it will "provide compensation and other benefits to those workers and to the spouses and dependants..." That tells me that, especially in the case of death, there would be survivors' benefits paid to the wife, being the spouse, and in some cases we pay the children if they were dependants of the deceased worker. As I read what you're saying here, you're saying, "To provide compensation and other benefits to workers and to the survivors of the deceased workers." Why take "dependants" out?

Mr Maves: It includes all three: spouse, child or dependant. "Survivor" in the definition includes all three.

Mr Bisson: Maybe I'm misunderstanding here. It now says in the act, as you propose it, "spouses and dependants of deceased workers."

Mr Maves: Not child. By putting in "survivor," that's child.

Mr Bisson: What you're saying in the new 4 is "provide compensation and other benefits to workers and to the survivors..."

Mr Maves: Right.

Mr Bisson: It's probably not a problem, but I just want to understand.

Ms Rappolt: Right now, paragraph 3 in Bill 99 reads, "To provide compensation and other benefits to those workers and to their spouses and dependants of deceased workers." What we're substituting is, "To provide compensation and other benefits to workers and to the survivors of deceased workers." "Survivor" means in our definitions "a spouse, child or dependant." We're trying to be fully inclusive.

Mr Bisson: Gotcha.

The Chair: Further debate? Seeing none, then I put the question. Recorded vote.

Ayes

Gilchrist, Hastings, Hoy, Maves, O'Toole, Ouellette, Patten, Spina.

Nays

Christopherson.

The Chair: The motion carries.

Shall section 1 of schedule A carry as amended?
Recorded vote.

Ayes

Gilchrist, Hastings, Maves, O'Toole, Ouellette, Spina.

Nays

Christopherson, Hoy, Patten.

The Chair: Section 1, as amended, carries.

Moving now to the next amendment, top of page 14, it's a Liberal motion.

Mr Patten: I wish to withdraw this motion number 14 and number 15 as well.

The Chair: Motions 14 and 15 withdrawn.

Mr Christopherson: Could I ask, just for my own edification, why it's being withdrawn? What's the problem?

Mr Patten: Because in going through these things so quickly, as you well know, and putting them together, in looking at this more closely it's more restrictive in terms of the eligibility of compensation and we felt that wasn't fair.

Mr Christopherson: I will just say I'm pleased that you're doing that because certainly there were no injured workers who wanted this. This was being put forward by employers and on page 15 your motion was even rejected by the likes of Cam Jackson because it wouldn't do any good and would increase litigation. So I'm very pleased to see that you've seen the light and withdrawn this.

The Chair: Moving now then to the amendment on page 16, this is a government motion.

Mr Maves: I move that subsection 2(1) of the Workplace Safety and Insurance Act, 1997, as set out in schedule A of the Workers' Compensation Reform Act, 1997, be amended by adding the following definitions:

"attorney" means a person authorized under a power of attorney for property given under the Substitute Decisions Act, 1992;

"earnings" or "wages" include any remuneration capable of being estimated in terms of money but does not include contributions made under section 24 for employment benefits;

"guardian," except in subsections 29(3) and 60(4), means a guardian of property appointed under the Substitute Decisions Act, 1992 or a statutory guardian of property designated by or appointed under that act;

"silicosis" means a fibrotic condition of the lungs caused by the inhalation of silica dust that is sufficient to produce a lessened capacity for work."

The amendment corrects drafting oversight by reinserting into the act the definitions of "earnings" and

"wages" and "silicosis" from the WCA. In addition, the definitions of "attorney" and "guardian" are added to the act.

Mr Christopherson: I just need your guidance, Chair. I'm looking at the compendium that we're provided with and I'm not coming out with the same. Which section does this apply to?

The Chair: Subsection 2(1).

Mr Christopherson: Where I'm confused is, the notes are referring to changes that affect the Workplace Health and Safety Agency, so I must be on the wrong page.

The Chair: Are you on page 12 of the bill?

Mr Christopherson: Hang on.

The Chair: Halfway down.

1740

Mr Christopherson: What page in the compendium, maybe from the legal people?

Ms Rappolt: We're reading from page 40A.

Mr Christopherson: Right, that's what I wanted. That's fine, thank you. I just wanted to make sure we're singing from the same hymn book here.

Mr Bisson: Can I ask why it is that in the amendment under the definitions you're giving a definition around silicosis. Isn't that already defined? I need to understand why.

Mr Maves: Along with earnings and wages it was a definition that was inadvertently left out of the act when they rewrote it.

Mr Maves: It was in the original act, wasn't it?

Mr Maves: Yes, it's in there.

Mr Bisson: That's what I thought. So this is the same definition of silicosis as in the existing act, am I to believe?

Mr Maves: Yes.

Mr Bisson: When it comes to guardian, is that the same argument — guardian, earnings and attorney?

Mr Maves: "Guardian" and "attorney" I believe are there because of the Substitute Decisions Act. Maybe counsel can verify that.

Ms Cohen: Those are new definitions. Those don't exist in the current act and the reason that we are putting them in is due to the redraft of the current act. We have clarified section 29 and section 60 in schedule A that refer to, in the case of section 29, rights of actions that an incapable person or a child may have, and, in section 60, payments made by the board to persons who are incapable or to children. What we've had to do is interrelate it to the Substitute Decisions Act, and those are the same definitions that exist in that act.

Mr Bisson: On the question of earnings, is that the same definition?

Ms Cohen: Earnings or wages, yes, that was left out. That's in the current act.

Mr Bisson: But that's the same language? That's what I'm getting at.

Ms Cohen: Yes.

Mr Bisson: That's all I needed to know.

The Chair: Further debate? Seeing none, I'll put the question with a recorded vote, please.

Ayes

Galt, Gilchrist, Hastings, Maves, O'Toole, Ouellette, Spina.

Nays

Christopherson, Hoy, Patten.

The Chair: The motion carries.

Moving to the next amendment, page 17, this is an NDP motion.

Mr Christopherson: I move that the definition of "board" in subsection 2(1) of the Workplace Safety and Insurance Act, 1997, as set out in schedule A of the Workers' Compensation Reform Act, 1997, be struck out and the following substituted:

"board" means the Workers' Compensation Board."

What we are seeking to do is keep the name we currently have. There's a million dollars there that we think can be saved and put to injured workers. We don't need to be changing this name.

Mr Bisson: I'm not going to get into it at any length on this, but if the government is serious about trying to save money, here's one place we can save a million bucks. It's not a big deal. It means to say that all of the literature that the board now has, all the letterhead that they have, all of the signage that they have etc is going to have to be changed in order to take away the word "board" and replace it by "insurance scheme."

If the government is looking at a way to save a million bucks in order to deal with either the unfunded liability or maybe they want to give a bigger break to their employer friends or, even better, give it to injured workers, here's a way you can do it. I'll be interested to see what the parliamentary assistant has to say.

Mr Maves: I think we had this debate about the name of the board on the first day, and my comments from that day would still stand.

Mr Patten: I support the amendment for the same reasons that have already been expressed. But just to elaborate one other point, surely the government knows there is tremendous insecurity by injured workers or workers in the workplace who are not injured at the moment, but worry about their future. If it were up to me, I'd say why change it when you're going to add insecurity to a definition when a lot of people believe this is one step away from privatization and they feel more comfortable with the term "workers' compensation" because the original intent was to compensate injured workers.

Mr Hastings: It's quite evident, if you look at the purpose clause of the act, if you look at the general configuration of the legislation, that the whole intent still is to ensure adequate and fair compensation for injured employees and rehabilitating workers.

In terms of the million dollars that the NDP — this is really quite preposterous. It's a first that the third party's interested in saving money. In point of fact, when you make changes to organizations, whatever their name is, to

whatever they're going to — it's quite obvious that the original name "Workers' Compensation," all its letterhead, all its vehicles, any of the public relations or communications pamphlets will still be used until they've been exhausted, at least the correspondence. I don't think you're going to see boxes of letterhead thrown out simply because there's a change in name. As for the amount of money, a million, if you divided that by the number of injured workers, I'm sure it would come down to probably a penny, if that. For a party that was so concerned about saving a million, just think of the hundreds of millions they wasted on a new office building, which was completely needless, that we inherited. That one really helped the injured workers.

Mr Christopherson: I find the hypocrisy in your comments just overwhelming. For you to be one of the ones attacking the inclusion —

Mr Hastings: Make the hypocrisy yours in these hearings.

Mr Christopherson: You were one of the ones who argued that "fair" ought not be in there, but the first opportunity you had, you want to use how fair you're being because you want fair compensation. Don't you see the hypocrisy? You say the word but you won't put it in the law. You won't back it up.

Interruption.

The Chair: Order, please. Please take your seat, sir. We'll recess for five minutes, please.

The committee recessed from 1748 to 1751.

The Chair: All right, our next speaker in our continuing debate is Mr Bisson.

Mr Bisson: On a point of order, Madam Chair: I heard the member for Etobicoke-Rexdale suggest that the workers here were trained seals. I think that is highly inflammatory.

The Chair: That is not a point of order, Mr Bisson.

Mr Gilchrist: It is not. Cite the standing orders. What standing orders are you referring to. It's a speech.

Mr Bisson: So is it proper for members of the audience —

The Chair: It's nothing to do with procedure, as you well know.

Mr Bisson: So they can insult the public any time they want?

The Chair: That's not the issue. Do you wish to speak to the motion that's on the floor? No? Mr Christopherson.

Mr Christopherson: I was continuing my response on our motion to leave the name the way it was.

The only other things I wanted to add for the record — and Mr Maves is right, we did have this discussion on the opening day. Quite frankly, Parliamentary Assistant, I'm still waiting for a satisfactory answer to the questions I put to you. You have not answered them and I will place them to you again.

If you're so concerned about fairness and if you're so concerned about balance and if you're so concerned about prevention of illness and disease and accidents in the workplace, why have you taken away the words

"Workers' Compensation" from the title of the bill? Why have you done that?

Mr Maves: As I said last week, there's a renewed emphasis on workplace safety and that's recognized by the name change in the bill. Of course, in the purpose clause we talk about the purposes of the board: "to promote health and safety in workplaces and to prevent and reduce the occurrence of workplace injuries and occupational diseases; to facilitate the return to work and recovery of workers who sustain personal injury arising out of and in the course of employment or who suffer from an occupational disease; to provide compensation...." — it's still a purpose in the bill — "to facilitate the re-entry into the labour market of survivors of deceased workers where appropriate."

We also have incorporated in the function portion of the bill many new responsibilities for the board which speak to its need to turn its attention and become the focal point in Ontario of the promotion of health and safety in workplaces and to prevent and reduce the occurrence of workplace injuries and occupational diseases.

We think the reorientation of the board, their new role as coordinator of health and safety, prevention of injuries is very relevant and we wanted the name of the board to reflect that: hence, the Workplace Safety and Insurance Board.

Some of the functions we've given to the board that speak to this are the board's functions: "to promote public awareness of occupational health and safety; to educate employers, workers and other persons about occupational health and safety; to foster a commitment to occupational health and safety among employers, workers and others; to develop standards for the certification of persons who are required to be certified for the purposes of the Occupational Health and Safety Act and to improve training programs for certification; to certify persons who meet the standards; to develop standards for the accreditation of employers who adopt health and safety policies and operate successful health and safety programs; to accredit employers who meet the standards."

There are other functions too of the new board. I think these ones are essential. The overall direction of the bill is to have the board take over, as I said, for the province the guidance of health and safety systems in Ontario. I believe it was Mr Smith's tax force which thought that there should be some reorientation, that the board indeed needed to become the focal point for workplace safety, that there were some problems with the safe workplace associations and the worker training centres and the health clinic, the medical clinics, that they were all going off in different directions and that there wasn't accountability, there was no coordination. The recommendation came forward that those come under the aegis of the new board and that workplace health and safety be coordinated by the board through these workplace parties.

Workers' compensation and health and safety mandates are integrated in many other provinces: British Columbia, Newfoundland, New Brunswick, the Northwest Territories, PEI, Quebec and the Yukon. We thought, when we

were redoing the workers' compensation system in Ontario, it would be important for us to act on some of those recommendations we had. I think Mr Jackson felt the same when he did his study. We felt it was vitally important that we have this reorientation for the board. Since it was such a change, really, in the health and safety system in Ontario, we thought the board's name should reflect that, and that's why we called it the Workplace Safety and Insurance Board.

Those are many of the reasons, the principles behind why we changed the name. It's the principles that are reflected from other bodies that reported back to us. As I said, I believe not only was it Brock Smith's report, but I think it was Mr Gladstone's report that also talked about changing the board's responsibilities in this direction. For all those reasons, reasons that I talked about last week, we changed the name to Workplace Safety and Insurance Board.

Interruption.

The Chair: Order, please. Mr Patten, further debate?

Mr Christopherson: I still have the floor.

The Chair: All right, we'll allow him to complete his question. My apologies.

Mr Christopherson: I had the floor and he started running the clock. I just want to respond that that's a load of crap, and the parliamentary assistant knows it. Everything that you've read out that's supposed to be renewed, new emphasis was already there in the Workplace Health and Safety Agency or it was already there in the Occupational Disease Panel. Those responsibilities were taken out of WCB because they weren't being done properly inside WCB. You're taking us back to those dark days because you have no intent to make the workplace any safer. That's why you killed the agency and that's why you're killing the ODP, and the \$1 million is just a waste.

Mr Patten: Before we vote on this, I wonder if the parliamentary assistant can confirm, because I thought the suggestion from the member for Etobicoke-Rexdale was a good one, that if indeed this is passed and there is a name change, all the paper, all the envelopes, all the letterhead, all the brochures, all the vehicles will be used until they're completed before the new logo or the new name is utilized. Could you confirm that to this committee at some point?

Mr Maves: Actually, I can't confirm that one way or the other. That would be an operational policy of the board. I think Mr Hastings was expressing his desire to see the efficient use of funds. Whether the board actually is planning on doing that I can't really comment on.

Mr Bisson: I want to know that there is some assurance if the government is truly serious about trying to save money to pay down the unfunded liability and to make sure there are — we can't say "fairer workers' compensation" any more — benefits towards injured workers. The member for Etobicoke-Rexdale said that he was going to guarantee us that none of the stationery would be thrown out, everything would be used, the supplies would be allowed to run down before they went out and bought others. To the parliamentary assistant, is it the intention of the government to give that direction to the board? To the parliamentary assistant.

Mr Hastings: Point of clarification on that.

Mr Bisson: He wants to clarify.

The Chair: Mr Hastings, point of clarification, and then to Mr Gilchrist.

Mr Hastings: On a point of order, Madam Chair: Since the member, M. Bisson, is such a careful listener, really a careful listener, I did not use the words, I'll repeat again, I did not use the words that we would guarantee. I said that there could be a normal expectation that in the changeover —

Interruption.

The Chair: Order, please. Take your seats. Mr Gilchrist, further debate?

Mr Gilchrist: I think Mr Bisson's request should be accompanied by a request to the NDP that if it wasn't just a specious and rhetorical rant they were on and they have any evidence of the cost of a million dollars, they will table that with the parliamentary assistant to enable him to do his research thoroughly, so that they're not enflaming people with absolutely drawn-out-of-the-air numbers, as they usually do. After the way they mismanaged this province, I wouldn't trust them to do the accounting of the cost of a meal at McDonald's.

With that, Madam Chair, I ask that you put the question.

Mr Christopherson: The million dollars is in the Jackson report, Gilchrist, and your own staff confirmed it the first day.

The Chair: Order, please. Mr Bisson still has the floor. I am not going to put the question. I am going to adjourn and we'll reconvene on our next appointed day, which will be Monday at 3:30.

Mr Bisson: Madam Chair, I have —

The Chair: We're out of time; we'll adjourn and reconvene.

The committee adjourned at 1803.

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Legislative Assembly of Ontario

First Session, 36th Parliament

Assemblée législative de l'Ontario

Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 15 September 1997

Journal des débats (Hansard)

Lundi 15 septembre 1997

**Standing committee on
resources development**

Workers' Compensation
Reform Act, 1996

**Comité permanent du
développement des ressources**

Loi de 1996
portant réforme de la Loi
sur les accidents du travail



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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT RESSOURCES

Monday 15 September 1997

Lundi 15 septembre 1997

*The committee met at 1534 in committee room 1.*WORKERS' COMPENSATION
REFORM ACT, 1996LOI DE 1996
PORTANT RÉFORME DE LA LOI
SUR LES ACCIDENTS DU TRAVAIL

Consideration of Bill 99, An Act to secure the financial stability of the compensation system for injured workers, to promote the prevention of injury and disease in Ontario workplaces and to revise the Workers' Compensation Act and make related amendments to other Acts / Projet de loi 99, Loi assurant la stabilité financière du régime d'indemnisation des travailleurs blessés, favorisant la prévention des lésions et des maladies dans les lieux de travail en Ontario et révisant la Loi sur les accidents du travail et apportant des modifications connexes à d'autres lois.

The Chair (Mrs Brenda Elliott): Good afternoon, colleagues. The standing committee on resources development is called to order to resume clause-by-clause debate on Bill 99.

Interruption.

The Chair: We are recessed for 10 minutes, colleagues.

The committee recessed from 1537 to 1556

The Chair: Good afternoon. The standing committee on resources development is called to order to resume clause-by-clause debate on Bill 99.

Mr David Christopherson (Hamilton Centre): On a point of order, Madam Chair: I want to raise two important points. The last day we met, I believe the member for Scarborough Centre, Mr Gilchrist, was here to question the numbers we were using about the \$1 million this government is wasting on changing the name of the board. He went on at great length about the fact that the opposition can't be trusted, particularly the third party, to come up with numbers. It's in the cabinet document that was leaked, and if he'd done his homework he'd have known that.

The Chair: Mr Christopherson, sorry, that's not a point of order.

Mr Christopherson: The other point of order —

The Chair: Is this a real point of order?

Mr Christopherson: Yes, it is, actually.

The Chair: Good.

Interjection.

Mr Christopherson: No, this one is an actual point of order. I am seeking unanimous consent to move to the amendment that relates to section 106.1. The reason is that this is a significant amendment that has the effect of possibly causing thousands and thousands of injured workers to lose their right of appeal. That was not part of Bill 99 and it was not part of any kind of public discussion or public input. At the very least, I am asking that we move that amendment up and that it be dealt with first in light of the fact that there's been no public comment at all and that it is not part of Bill 99 in its original form.

The Chair: Could you tell me what page that amendment would be on, please?

Mr Christopherson: It's page 211 of the amendments. It's a new section 106.1. I'm seeking to have it moved up because of its significant impact on thousands of injured workers and the fact that it's never had one minute of public debate because it wasn't tabled until after the public hearings.

The Chair: Mr Christopherson is seeking unanimous consent to move from the amendment that we were discussing on page 17 to the amendment on page 211, which is a government motion.

Mr Christopherson: I might point out to help members appreciate, this retroactively applies the time limits to appeals. Retroactively doing that begs a number of questions that I'd like to ask of the parliamentary assistant. I would think the government members would want to know this too. It's their constituents who are affected. We've never seen this before in the public hearings — there has been no comment on it — yet if this is passed as it is, potentially thousands of injured workers will lose the right they have today to file an appeal.

As you know, the question around limiting time for appeals in other applications in the bill has been the focus of major attention. Had they known this, that it would be retroactively applied, I can assure you that much, much more would have been said in public about this matter.

The Chair: Is there unanimous consent to move to page 211 from page 17? No, there is not unanimous consent.

Mr Christopherson: Who's opposed? Bart Maves is opposed. Why are you opposed?

The Chair: Sorry, this is not the time for —

Mr Christopherson: Oh, come on. This is affecting thousands of workers. It's retroactive legislation, which is

dramatic in its own right, and the fact that it wasn't part of the public hearings demands that it at least be heard today.

The Chair: I understand that.

Mr Christopherson: I'm not yelling at you, I'm yelling at him.

The Chair: That's very kind of you.

Mr Christopherson: Come on, Bart.

The Chair: The fact of the matter is, under the standing orders, Mr Christopherson, we have to debate the amendment before the committee at this point in time.

Mr Christopherson: Unanimous consent would allow us to move on, correct, Chair?

The Chair: Yes, but there was not unanimous consent.

Mr Christopherson: I want to hear from the parliamentary assistant why not. Are you afraid? Are you afraid to discuss this?

The Chair: We can't go on.

Mr Christopherson: The opposition's in favour. You've got the majority. You're going to get your way anyway. Let's go.

Mr Bart Maves (Niagara Falls): Chair, I don't want to move to debate the section, but for the benefit of those in the room, I will ask the policy staff from the Ministry of Labour to clarify it. But we are not going to give unanimous consent to move to have full debate on it.

The Chair: All right.

Mr Christopherson: So you're going to have your say but we're not going to get ours.

The Chair: Hold it. Actually, let's not go down that route. We are on page 17, discussing the NDP motion.

Mr Gilles Bisson (Cochrane South): Madam Chair, on a point of order: I need some clarification. The member for Hamilton Centre, Mr Christopherson, asked that the parliamentary assistant and the rest of the government committee allow, by unanimous consent, a movement to that particular clause. Rightfully so, you put the question forward. There was a dissenting no. We didn't hear who it was. The parliamentary assistant then decided to ask for special consideration from the committee to explain the government's position. You were prepared to give it to him, but you're not prepared to give the rest of the committee, namely, our labour critic, Mr Christopherson, the opportunity to ask the question. I think it's highly irregular. Either we have it or we don't. You can't give rules that apply to one side, the government side, that favour them, and after that allow the opposition no opportunity to respond.

The Chair: Mr Bisson, if the committee wishes by unanimous consent to allow that, then so be it. However, I am not going to allow debate on a motion that is not on the floor by way of unanimous consent. That would be inappropriate, in my view, and that is my ruling.

Mr Bisson: I agree with you, Chair, but it is not appropriate, in my view, for you as the Chair to allow the parliamentary assistant the opportunity to have the ministry clarify what the position is on that particular policy and then in the same breath turn around and deny that opportunity to the critic for the NDP party. I think that's irregular.

The Chair: I have considered what the ramifications of that decision would be, and the decision I am making as the Chair of the committee is that we will have debate on the amendment that is before the committee on the floor. That is not on the floor.

Mr Dominic Agostino (Hamilton East): Madam Chair, on a point of order on the same lines: I would seek unanimous consent that once the staff researcher has made the presentation, the opposition parties would be then given the opportunity to respond to that presentation and the comments. I seek unanimous consent for the committee to do that.

The Chair: Mr Agostino seeks unanimous consent on that point. Is there unanimous consent?

Mr Christopherson: That's what I asked for in the first place.

Mr Maves: No, you didn't.

The Chair: Order, please. I am hearing unanimous consent for that request.

Mr Maves: An explanation followed by a follow-up, right?

The Chair: An explanation from legal staff, yes.

Ms Mary Rappolt: Section 106.1 clarifies how the new procedures of the appeals tribunal and the board will apply with regard to existing decisions. I think the particular question was about the appeal period for board decisions. Section 106.1 points out that the six-month appeal period will apply to those decisions made on or after January 1, but also to board decisions made prior to January 1, 1998.

I think it's important to point out two features. One is that the Workers' Compensation Board, prior to proclamation of the bill, will be proceeding with significant notice to all clients of the board — employers, workers and so on — regarding the whole range of rights and obligations that have changed. The board has noted, and I've been asked to table, that they will be taking special measures to make injured workers and employers aware of the fact that decisions made prior to January 1 will be subject to the appeal period of January 1, 1998, through to the end of June 1998. That's the first point.

The second point I'd like to raise is that section 114 of Bill 99, of schedule A, which sets out the six-month period, also gives the board the discretion to waive that period when it is just to do so, when the circumstances warrant a waiver on the basis of perhaps, in good faith, the claimant not having access to the information they needed to launch the appeal. The board does have the discretion to waive the six-month appeal when it determines that it's just to do so.

Mr Christopherson: A couple of questions before I respond to this very, very draconian measure. First of all, Parliamentary Assistant, why are you finding it necessary to extinguish rights that injured workers have today with this amendment? Why are you taking away their rights and using your new time frame retroactively and extinguishing those rights?

The Chair: Mr Christopherson, my understanding of the request for unanimous consent was that legal counsel

would respond and that each party could comment. We're not moving further into debate. Did you wish to comment?

Mr Christopherson: I would think that —

The Chair: No, I'm sorry. My interpretation —

Mr Christopherson: But the parliamentary assistant had the staff say that so we could understand what's going on. I just want to clarify by asking the parliamentary assistant a couple of questions.

Mr Maves: We're not getting into any debate.

The Chair: That would then form debate. I have indicated that's not the ruling of this Chair, that we are debating only the motion on page 17. If you wish to make a brief comment, that's fine. Then the Liberals may make a brief comment and then we're moving back to page 17.

Mr Christopherson: Fine, I'll make my brief comment. I share the frustration that the public feels here. I'm an elected member of this Legislature and I can't even debate the bloody amendment that's affecting these people. Where the hell's democracy? The fact is that you're allowing this crumb — this is like the six days of public hearings. It's a little crumb. I asked to move to this amendment and debate it because it's going to affect thousands of injured workers, and all you give me is a quick little statement from a bureaucrat. Then I get to say a couple of words and then we move on to the rest of your amendments, which, by the way, you are absolutely, lawfully guaranteed to carry by the end of the day. You've already got all that power and you still won't debate this.

On this itself, let me say to you that I couldn't imagine anything more disgraceful than what you've done already, yet here you are today passing an amendment that nobody had any comment on, that reaches out beyond the law as it now exists and takes away rights that injured workers have today by making this retroactive. Just how bloody low can this government get? How low in the gutter can you go in going after injured workers?

Mr Bisson: I can't ask a question but I want to maybe state the obvious to make sure we understand what this policy means. What this basically means is that a worker who is injured prior to January 1, 1998 — and I'm looking at the ministry staff, the legal staff; if they can at least give me a nod, that would be a good way to get an answer — would lose the right to appeal come June 1, 1998, by way of this clause.

Ms Rappolt: I'd like to clarify that. That's not the information I confirmed. What I said was that the six-month appeal period would apply to decisions made prior to January 1, 1998. They do not lose the right to appeal. There is a six-month period, first of all, and second, there is authority with the board in circumstances where they feel the person, in good faith, has not been —

Interruption.

The Chair: Order, please.

Ms Rappolt: Where the claimant has not been able to exercise their right of appeal, that period can be extended where it is just to do so.

Mr Bisson: I understand that you're giving some discretion, but what this says is that as an injured worker advocate who goes before the board on a regular basis, if I

have a worker who is now trying to get justice from the board because they were injured prior to January 1, 1998, and they wait for whatever reason until after June, I will be at the behest of the board to be able to go before them and before a hearings officer to even get the case to the board.

It means that workers who are now injured or have been previously injured are losing the right to appeal on the basis of this amendment, and that is not right. It's totally bureaucratic. I'm going to have to go to the board to try to get to a hearing, because this government took the right away. Crazy.

1610

Mr Dwight Duncan: We don't agree at all with what the government is suggesting. What we think you're doing again, it's very clear to us, is further limiting an injured worker's ability to appeal a decision. I would submit to the government members of this committee that there has been process that has been established over years and codified in law for a good reason: to ensure or to try to ensure as best we can in a bad world that there is fairness and access to appeal.

You're denying that and you're not serving anyone's cause, because not only is it going to penalize injured workers unfairly, it circumvents and undermines fundamental justice. My guess is this won't stand any kind of appeal to the courts. Like so much of the other legislation you've brought forward, it's nothing but an attempt to hurt the most vulnerable in our society. This will be stomped out as quickly as your government will be stomped out in 1999.

The Chair: Returning to page 17, the NDP motion, is there further debate?

Mr Christopherson: Since I was cut off in the beginning, I just want to again for the record say that the — I don't know if he's here today; it's too bad. He came in here like an expert in everything. I'm speaking of the member for Scarborough East, Mr Gilchrist, who came in here ranting and raving like he knew what he was talking about, accusing us of not having done our homework, not having the right figures, saying that everything we did was suspect in terms of facts we put on the table etc.

For the record, I want to say very clearly that in the cabinet submission which was leaked by me in the House, dated September 18, 1996, on page 16, it says, "It is noted that the board projects that the costs associated with the change of name will be approximately \$1 million." I would strongly suggest that Mr Gilchrist and other members of the government do their own homework before they accuse the opposition of not having done theirs.

Mr Pat Hoy (Essex-Kent): We will support this motion as I think there have been similar ones in the past under other sections. We recognize full well that the government has stated it would cost a million dollars to change the name. We asked for the word "fair" to remain in the act, which would cost nothing, and the government voted the word "fair" down at our last meeting of clause-by-clause. There are those who believe the name change

will lead to privatization of what was formerly known as the Workers' Compensation Board.

The Chair: Further debate on the motion before us? Seeing none, are you ready for the question? A recorded vote. Shall the amendment carry?

Ayes

Agostino, Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The motion is lost.

Moving next to page 18, this is a government motion.

Mr Maves: I move that the definition of "dependants" in subsection 2(1) of the Workplace Safety and Insurance Act, 1997 as set out in schedule A of the Workers' Compensation Reform Act, 1997 be amended by striking out "in relation to a deceased worker" in the first and second lines.

The amendment just corrects a drafting error, as there are situations where the act applies to the dependants of a live worker. So it's broadening the scope of coverage.

The Chair: Further debate? Seeing none, I'll put the question. A recorded vote. Shall the amendment carry?

Ayes

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Agostino, Christopherson, Duncan, Hoy, Martel.

The Chair: The motion is carried.

Moving now to page 19, it's a Liberal amendment.

Mr Dwight Duncan (Windsor-Walkerville): I move that the definition of "health care practitioner" in subsection 2(1) of the Workplace Safety and Insurance Act, 1997 as set out in schedule A of the Workers' Compensation Reform Act, 1997 be amended by inserting "a rehabilitation counsellor" after "professional" in the first and second lines.

It was suggested by the Canadian Association of Rehabilitation Professionals that we incorporate this into this particular section. They feel their rehabilitation counsellors should be included in the definition of health care practitioners and we support them on this.

Mr Maves: We're not clear on who exactly would be considered a rehabilitation counsellor and what the person's role is in the health care system, and when does a health professional refer an injured worker to a rehab counsellor and for what purpose? I wonder if the Liberal caucus could clarify some of these questions.

Mr Duncan: Certainly. Rehabilitation counsellors must possess a special knowledge of medical, psychological and economic aspects of disabling conditions, occupa-

tional counselling and job placement skills, client assessments and counselling techniques, and co-ordination of vocational rehab services.

Ontario rehabilitation counsellors currently have two bodies through which they may pursue accreditation, are in fact accredited counsellors. These are CARP and the CRCC respectively, both of which are self-regulating.

Mr Maves: Just with that explanation, I think rehabilitation counsellors would have a role in the return-to-work process perhaps, but I don't know if they'd have one in the health care system. It's a health care practitioner. I think what they do is better perhaps utilized in just a return-to-work scenario, a labour market re-entry scenario. That's where they're better left. We will vote down this amendment because of that fact.

The Chair: Further debate? Seeing none, I'll put the question then. A recorded vote, please.

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Shall section 2 of schedule A, as amended, carry? A recorded vote. Shall the amendment carry?

Ayes

DeFaria, Hastings, Jordan, Maves, Ouellette, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 2 carries.

Moving on in schedule A, shall section 3 of schedule A carry? Any debate? Shall the amendment carry?

Ayes

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 3 of schedule A shall carry.

On schedule A, section 4, the next amendment before us is on page 20. This is a Liberal amendment.

Mr Duncan: I move that paragraph 9 of subsection 4(1) of the Workplace Safety and Insurance Act, 1997 as set out in schedule A of the Workers' Compensation Reform Act, 1997 be struck out and the following substituted:

"9. To reinstate an independent Occupational Disease Panel and respond to its findings and research."

Mr Maves: On a point of order, Madam Chair: It is my understanding, and that of the government, that the amendment is actually out of order because it requires that an independent agency appointed by statute be allowed to appoint another independent agency. That could only be done by passage of a bill by the Legislature. I don't think that this is in order because it can't really occur as it's set out. I might ask legislative counsel to —

The Chair: One moment, please. It's the view of legislative counsel that this would not be out of order. Whether or not it would work is another matter, but in fact it would be in order. I tend to agree.

1620

Mr Maves: Can I have our legal counsel respond to that?

The Chair: Could we just wait for one moment, please, and allow Mr Duncan to comment on the introduction of the amendment and then we'll have further debate.

Mr Duncan: Legislative counsel has said that this is in order. It's our view that it's in order. There are many statutes that contemplate independent agencies being appointed by schedule A agencies or other types of provincial agencies. I would have thought that the Chair was bound by advice of legislative counsel as opposed to government counsel and would recognize this as a legitimate amendment. We know you're going to vote it down. We know you're going to make a serious mistake in judgement around the Occupational Disease Panel.

I will remind members of the government, as I reminded the Minister of Labour, that I remember the time before we had the disease panel, when every government had to appoint independent commissions to study a disease and every government got tied up in endless debate that became politicized. Ultimately, in most cases, in our experience, the government, the WCB, lost.

Keep the panel. Keep independent scientific advice. We recognize that you might want to take the world-is-flat approach to public policy, which is what this is. You're saying: "Ignore scientific advice. We don't need that. Make it political." We say the disease panel has served an extremely useful function. I will remind members of the government that it was a study appointed by the previous Tory government that recommended the disease panel. It's a panel that has provided scientific advice and evidence on very difficult issues, issues that ought not to be politicized, issues that ought to be dealt with on their merits.

We've heard from the occupational health clinics of Ontario, the United Steelworkers, the CAW, various labour councils, and I've even heard from a number of employer groups who don't want to be back to the old days when you'd get a commission, it would take time and it would be costly and eventually it would rule. Let's have independent, scientific advice. Let's make that part of public policy so that where a worker contracts a disease related to his or her workplace they can be fairly compensated and when it's scientifically shown not to be, then we can move on. But let's not stifle scientific debate, please.

Mr Bisson: This is probably one of the most negative things that you're doing in this bill from the perspective of

what it means over the long term to injured workers in this province. I'm not going to go into the whole detail of it because I think most people here understand what the ODP does. But two things really strike me here.

First of all, the government prides itself on saying it's a government of common sense. It prides itself on saying, "We want to take the politics out of the system." By taking the ODP out of where it is now, as an independent body that bases its decisions on scientific evidence, you're going to be politicizing it. What you're doing will end up tying governments in future to having to deal with these issues, because the board will not have the ability to the degree they do now to deal with what are very scientific, very complicated issues; that is, the relationship between industrial disease and a person's health. You're turning the clock back and you're going to be politicizing the system. That's the first point.

The second thing is, it flies in the face of all common sense. You pretend that all of a sudden government members, or opposition members for that fact, all of us, are so-called experts on industrial diseases. There may very well be a few of us who know something about it, but nobody here is an expert. That is why we have the ODP in place, so that they're able to go out as a board, to consult with the scientific community, both within the province of Ontario and abroad, to take a look at the scientific data, to approach it from a scientific perspective, and to make a decision based on the reality and not the politics.

On the one hand you're politicizing, on the other hand you're saying the scientific community doesn't know what it's talking about when it comes to industrial diseases. I don't know. I'll put my faith behind the scientific community before I put it behind yours any day.

The last thing I want to say about this particular issue — I know our critic, Mr Christopherson, has a number of things to say, because he was at the hearings with me and heard a number of deputations that were quite compelling to keep this in place — is the personal perspective of what this means for citizens. I come from a mining community. Like Shelley Martel, I come from a community that has thousands and thousands of people who have died on the basis of what happened to them in the underground. Why? Because they went to work one day and, over a period of time, they were diseased because of the mining environment.

We here in the NDP and within the United Steelworkers of America, the union from which I come, were able to go before the ODP and present the scientific data about what happened to these workers and say: "Don't listen to the Steelworkers, don't listen to the widows, don't listen to the survivors and, God, don't listen to the NDP. We want you to listen to the scientific community as to what the relationship is between lung cancer and having worked underground." What happened in the end? We were able to prove that there was a causal relationship between the two, which gave fair compensation to those people who unfortunately passed away and their survivors who needed benefits.

You're taking away access to any justice that miners today have and their families unfortunately will not have once this policy goes in place. I'll tell you, if there's one thing in my community that people understand about workers' compensation, it's that you need to make sure you have an ability to deal with these issues in a progressive way, because if you don't, you're putting it back in the hands of those people who caused the problem in the first place: the mining community and those people who have the bucks, who elected you people and keep you in power with their money so that workers are denied access and get the shaft yet again.

Mr Hoy: It is indeed true that as this committee travelled to the few cities we were allowed to go to, the Occupational Disease Panel was brought up by many who felt that independent research in the health area and workplace area was indeed required; for example, Report to the Workmen's Compensation Board on the Health Effects of Occupational Exposure to Fluids Used for Machining and Lubricating Metals in Manufacturing: Cancer of the Esophagus, in August 1996. The Occupational Disease Panel can provide information on those situations that may exist. Hard Rock Mining and Lung Cancer is another report they've produced; and Stomach Cancer in Ontario Gold Miners; and Cardiovascular Disease and Cancer among Firefighters. The reports are substantial, they're independent and they provide a mechanism for those persons to know whether their workplace is safe or not.

We believe that this motion to ensure that an independent Occupational Disease Panel exists in the future of Ontario is indeed required and provides workers with an expanded degree of safety within the workplace.

1630

Mr Maves: Prior to 1985 one of the things that most people said clearly, and that the government of the day recognized, was that the WCB at that time wasn't doing any research or the appropriate amounts of research. The idea of the Occupational Disease Panel was to make sure that some of that research would actually be done. With Bill 99, I should point out that we are telling the board that they have now a duty to monitor developments in injury and disease prevention and to ensure that generally accepted advances in these disciplines are reflected in the board's functions. In order to promote health and safety in workplaces, which is something that the board has a new function to do which it didn't have before, they now have a mandate and a responsibility for occupational health and safety research.

We believe that bringing the ODP within the board will help to better coordinate the research that will be done. There is more money. There is more research that is going to be done. I would point out that all of the —

Mr Bisson: All hogwash. Do you believe in Santa Claus?

The Chair: Mr Bisson, come to order.

Mr Maves: I would point out that all of the provinces have their WCB responsible for this type of research. As I said, ours never was. Now, with the changes in its duties, its functions and the purpose clause also stress that the

board has responsibility for occupational health and safety research. On several occasions, I've talked about the task force on research which includes the Ministry of Labour, the WCB, the Institute for Work and Health and university researchers, which has been established and is in the process of developing a broad research strategy. We've talked about that several times before.

I would also like to reiterate that we already know that the Minister of Labour has already made an announcement with regard to increased funding for research, which is going to be done within the board between now and the year 2000. That will take research from a total of \$5.5 million that's done right now to over \$12 million by the year 2000.

This is a new role for the board. It didn't have it before 1985; it has it now. We even heard from people from the Occupational Disease Panel that the previous board, which was even a bipartite board, quite often wouldn't respond to some of the Occupational Disease Panel's reports. There was a dysfunctional relationship there. If the board now is in charge of this, is asking for research to be done, is working with the private sector and teaching hospitals and universities to get research done, then there is a much greater onus now for the board to follow through and take steps with regard to the results of that research.

As I said, we've had this discussion several times before and that's where the government's position is on this issue.

Ms Shelley Martel (Sudbury East): May I begin by saying that I don't know what the parliamentary assistant's experience has been with the WCB, but I've got to say, based on what you just said, that it has to be pretty limited. Look, the problem here is, you folks decided to take away the bipartite board of directors and now you've got all your employer friends who are going to form the board of directors, and your employer friends have no interest whatsoever in paying compensation to victims of industrial disease — none. They don't want to.

Let me tell you how this is going to work in the real world that the rest of us live with, that you obviously have no understanding of. In the real world, when you take away the independent Occupational Disease Panel and you turn those functions over to the board, the board will not do what it's supposed to do. We had clear evidence of that from Homer Seguin, who was a member of the disease panel, who came before this committee in Sudbury and said that in the last nine years the Occupational Disease Panel did more to link industrial disease to workplaces and workplace practices and to put forward a method of compensation than the WCB did in 70 years prior to that.

That's the kind of experience we're going to return to because it is not in the board's interest to link compensation to workplaces and to pay people. It's going to be even less in the board's interest to do that now when you have stacked the WCB board of directors with your employer friends. These are the same people who should be paying compensation to survivors because, God knows, the peo-

ple who put the claims in are dead already from the industrial diseases they suffered from.

What will happen in the real world, which you don't seem to understand much about, Mr Parliamentary Assistant, is that there will be no effort made to do research, there will be no effort made to link industrial disease to workplaces and workplace practices, and there sure as hell won't be any effort made to provide compensation to the survivors who deserve it, not under the regime you are setting up.

That is why we have so strongly argued to maintain the independent Occupational Disease Panel, because that is a panel that has the scientific experts who are capable of doing the work that needs to be done to ensure that people who have contracted industrial disease get compensation for that. I have no confidence whatsoever that staff at the Workers' Compensation Board will do that job. I have none because they didn't for 70 years before this panel was first introduced. It is not in the interests of the board of directors to compensate people who suffer from industrial disease. The pricetag is too high because the numbers of people are far too high.

If you're going to do anything, for goodness sake at least try and provide the ways and means to ensure that people who have suffered from industrial disease, many of them who are dead, are at least going to have the opportunity for their survivors to get something, because what you propose, which is to do away with the independent ODP and to put that under the board, will surely, as we sit here today, ensure that no one who should get compensated is going to get it from here on in with respect to industrial disease. That's what you've set up under this legislation.

Mr Christopherson: I'd first like to say to the parliamentary assistant that I think it's quite indicative, given the profile that we have made of the elimination of the Occupational Disease Panel, that the first thing you tried to do here today was to have the amendment — and by the way, this is a Liberal amendment. We're going to support it. We have one that's very similar. I'm not sure if we're going to get that far down the package, so I'll make all our comments on this Liberal motion, because it comes first in the order of debate.

When you tried to have this killed, what you were trying to do once again was muzzle democracy, and for once we won one little battle in this war. I'll tell you something, Bart: It looks good on you. Now you know what it's like to be shut down when you've got something to say and have your tricks work against you. You've tried every time to do everything you can to limit discussion, to limit debate, to limit the hearings. You have a disgraceful record to account for and I don't know how the hell you plan to do that back in Niagara Falls when you go knocking on doors and every injured worker says: "Oh, you're that Bart Maves, aren't you? I know what I'm going to do with you, pal." That day is coming.

The Chair: Mr Christopherson, please speak to the amendment. Page 20, please.

Mr Christopherson: I'd remind everybody again that the cost of losing the Occupational Disease Panel is exactly the same amount of money this government is going to waste on changing the name, so that they can take out the word "worker" and they can take out the word "compensation" and insert the word "insurance," because we all know this is the tee-up to privatizing WCB. If you don't do it this mandate, your hope is to do it the second time. Make no mistake: No one is fooled. That's your long-term goal; that's why you changed the name. It's so disgusting that it's \$1 million to change the name to set up for privatization and it's \$1 million to run the Occupational Disease Panel in a way that continues to get the credibility and respect it has around the world.

Interruption.

The Chair: Order, please. Mr Christopherson has the floor.

1640

Mr Christopherson: Let me also point out to you, Parliamentary Assistant and members of the government back bench, that other than one or two employer groups, primarily the Ontario Mining Association — that's who's driving this, and we know it.

I've raised in the House before a copy of a letter that was sent to you from the Ontario Mining Association in July 1995 that outlined, I believe it was, six things that they wanted, and one of those things was the folding up of the Occupational Disease Panel. I'm here to tell you, you've delivered to your pals in the Ontario Mining Association 100% of the things on that list, and all you've given to injured workers in this province is the boot.

I've got a letter here which reflects probably the thoughts of about 80% or 90% of the people who presented and commented on the Occupational Disease Panel. If you really were listening in the hearings, the only people, other than one or two employer groups, primarily the Ontario Mining Association — outside of that, everybody who talked about the Occupational Disease Panel said it needs to stay where it is, it needs to stay independent and that you owe it to injured workers of the future to do the right thing in terms of preventing workplace illness and disease.

What do I have today? I have today a letter dated August 11, 1997, addressed to your boss, the Minister of Labour, and it reads:

"Dear Ms Witmer:

"During a recent meeting of the advisory board of the Mines Accident Prevention Association of Ontario, our members discussed the work of Ontario's Occupational Disease Panel. The issue was raised in light of the recent announcement that this panel will be disbanded.

"Our board members believe the panel has made a valuable contribution to health and safety in the mining industry and we would like to ask you to reconsider the decision regarding the panel. Please allow this worthwhile body to remain intact to continue its work."

It's signed by Don McGraw, the co-chair for labour of the Mines Accident Prevention Association of Ontario, which is an Ontario Natural Resources Safety Associa-

tion, and it is signed by Rick Brown, co-chair on behalf of management of the Mines Accident Prevention Association of Ontario.

Parliamentary Assistant, it's not just injured workers, it's not just the opposition parties, it's not just community groups, it's not just academics and physicians and other people in the scientific community — although, for God's sake, they ought to be enough — but it's not just them. It's also an independent bipartite body that truly cares about safety, and management has signed on here and said that you ought to stop what you're doing. When are you going to start listening to people?

I would think that the reason this happened is because enough of the management people — maybe not all of them but certainly enough of the management; because it's a bipartite board, you had to get some votes from the other side — have a conscience. Regardless of whatever political dictates you might have tried to send out from the Premier's office or the Ministry of Labour's office, these people felt that they had to live with themselves. Why don't you start thinking that way, and the same for your colleagues on the back benches? Think about what it's like to live with yourself, given the number of people who are going to be hurt, diseased and die on the job because of what you're doing.

I accept that there are those who are going to say that's just a lot of loud rhetoric, but the fact of the matter is that position is backed up by academics, by the scientific community, by the physician community, all the people who don't have a vested interest in anything other than workers and their health.

Why do they feel this way about it? Why is it so draconian? The fact of the matter is that my colleague from Sudbury East has already alluded to it, and I'll want to expand on it because it's the pivotal thing here.

The first thing you did was make sure in Bill 15 that you took away the right of injured workers to have 50% of the say on the WCB board of directors. We in the NDP government gave injured workers what they should have had decades ago, which was an equal say in how you run the WCB. You passed legislation that let you fire those worker representatives right off the board, so now it's controlled by your pals. Only your pals, your Premier and your labour minister, through order in council, appoint their friends, Mike Harris's golf buddies, to the WCB board of directors. That was step one with Bill 15.

Then what happened? In folding up the Occupational Disease Panel, you removed the ability of independent decision-making about what gets studied. You can talk about increasing the amount of money you're putting into study, but if the problem's over here and you're throwing buckets of money over there, you're still going to miss what's going on and we think that's what you want to do. You can announce that you're spending more money, but it depends on where you're spending it and what you are studying.

Right now, the labour movement and workers in this province have faith — it's not perfect, nothing is — that the independence of the Occupational Disease Panel

serves them well, that it allows an honest evaluation of where there may be significant linkages between exposures in the workplace or practices in the workplace that are directly causing injuries, illness and death. They have that faith.

In fact in the correspondence that we've received from around the world, urging you not to do this, it's that independence that they hold out as the crucial thing. There are jurisdictions around the world that hold out what we do now with the Occupational Disease Panel and say in their jurisdictions, for God's sake, "If you really want to help injured workers, look what they do in Ontario."

This is a really good thing. They've got a proven track record; it works. It's determining where claims ought to be legitimized and it's also pointing out for employers who want to and for the government that has to force those employers that it's necessary to, to correct the things in the workplace that are causing it, so you're taking care of financially compensating, even though you don't like that word any more, injured workers who have become diseased or died on the job through no fault of their own. Secondly, you're identifying why it's happening so that somebody else in that workplace and somebody else's family doesn't lose a loved one because you can go after the source.

I'll tell you something else. It may be that from time to time where there are certain suspicions about some substances, they may determine that's not the cause. It may be that all the labour representatives and all the activists on the floor, the trained health and safety committee members, even through their best goodwill and their own belief of what's right, could be wrong. If that's the case, then that ought to be declared and found out too because then you can move on and find out what is the cause.

This isn't about making sure that labour has a favourite hammer as a tool and a weapon that's out there. It's a tool and a weapon in the fight to stop workers from getting hurt. That's what it's a tool for.

The only answer for doing this, given that it can't be money — because you know as well as I do that neither you nor anyone else in the Tory government can justify saying, "We have to cut this for \$1 million" when you're left with explaining the fact that your name change alone costs the same amount of money as the issue that we're raising here — the only reason you're doing this is because the decision-making around what studies will be done — and what studies aren't going to be done, more importantly — will not be made by interested, objective, arm's-length participants. No, no. That decision about what gets studied and what doesn't get studied will be made by your pals and Mike Harris's pals, who you've appointed to the WCB board of directors because you turfed off all the labour representatives. If you think for one second anybody believes that's an improvement for the workplace in terms of how it affects injured workers, then you're the one who's got dysfunctional relationships with reality, not the Occupational Disease Panel.

1650

Mr Duncan: I wanted to have a chance to respond to the parliamentary assistant's response to our motion. First of all, the parliamentary assistant won't remember this, nor will any of their officials, but a fellow by the name of Professor Paul Weiler travelled this province extensively in the early 1980s and a government headed by one William G. Davis brought forward a bill called Bill 101, which died at the time the last Tory government died.

It was there that this was originally conceived, and why was it conceived? Because Professor Weiler found — and he did consultation. It was very controversial. Mr Crevar and Mr Biggin will remember those days, as will a number of other people in this room. He did consultation. He spoke with employers, he spoke with injured workers, he spoke with community groups and everybody said, "You need an independent voice." Why? Because the board can't be judge and jury. You won't get fairness. Ontario became a leader and we produced a panel that has produced outstanding research. I would say, and employers I have talked to have said, ultimately it's a better process.

I say to the government members that in doing this, you're turning back the clock a mere 10 years, 12 years and you're turning back a piece of public policy that served workers and employers. You're turning back a piece of public policy that we're going to lose and that will leave us in the same predicament we were in prior to 1986, when this was finally implemented.

I think we can say that those who believe the world is round will restart the clock in 1999 and restore a sensitivity to what research has shown, what independent councils have shown, what independent public hearings showed and what the research that's come out of the panel is: that a properly constituted panel can provide useful information and serve as a proper mechanism for adjudicating decisions around diseases that arise in the workplace, a process that prior to the panel had been hopelessly political, had been hopelessly dogged by infighting. This is one that at least ensures fairness and equity, not just for injured workers but for employers.

I would submit that like the individual who cosigned that letter, other employers will be asking you within a couple of years and will be asking the new government in 1999 to please reinstate the disease panel. Professor Weiler's recommendations, the recommendations of the Davis government that introduced this concept initially, were sound and good public policy that served everybody, workers and employers. They just make good sense.

Mr Bisson: It's very frustrating to be sitting here and listening to the inaction of the government when it comes to this particular amendment, especially given where I come from. I come from a community, as I said earlier, that is basically a mining community. When I entered into the workforce, it was in that mining community. Maybe I can try to put this in a bit of a personal perspective. Maybe that'll help to change the government's mind.

When we as young men grew up in the community called Timmins — they were probably the same in Sudbury, Elliot Lake, Kirkland Lake and a whole bunch of

other communities — you try to do what your father does. If your father was a miner, you try to aspire to become a miner yourself, because it is a good profession to be employed in. The problem is, once you got there, you found that all was not well in the mining industry.

In fact I remember as a young man the first mine that I worked at was an asbestos mine, Johns Manville. I remember working with miners and also with crusher mechanics who used to spit blood because the fibre of the asbestos would get into their lungs and create lesions on their lungs that eventually killed them, because eventually those lesions, in a number of cases, turned to cancer.

I remember far too often sitting in what we called the doghouse. The doghouse is not where you go when you're bad in the mining industry, it's where you go to wait to go underground. While you're waiting for the cage to pick you up to bring you underground, you sit in what's called the doghouse.

What always struck me as a young man entering into the mining community was how many of these guys — and they weren't old men, they were people my age; I consider myself young, I'm in my forties — who had Ventolin puffers in their lunch pails. Why did they have Ventolin puffers? Because they couldn't breathe unassisted without them. Why? Nobody really knew at the time why. We suspected it was because of mining. The doctors said it was because of smoking cigarettes and the mining community said it was because of smoking cigarettes. The WCB said it was smoking cigarettes and so did the government of the day. The problem was, they weren't all smokers.

We were trying to figure out what was going on. I remember also at that time watching in a community called Schumacher, that lies halfway between Timmins and South Porcupine, a bunch of not retired miners but miners who couldn't go to work any more. Why? Because functionally they couldn't work underground. They didn't have the breath. They didn't have the stamina to work underground because their lungs wouldn't see them through a day in the underground.

You'd see young men in their forties and early fifties walking all they could to try to get to the post office to check their mail because that was their activity of the day, or even trying to get to the Schumacher hotel or whatever one was available around shift change, the point being that these guys couldn't walk more than a block to a block and a half without grabbing the side of a building because they couldn't breathe.

You know what? All of this happened in the view of the then government. All of this happened in the view of the mining operators and the medical community of our town. How many times did we hear, after workers unfortunately were deceased, that their widows or their family tried to bring this case up before the Workers' Compensation Board to get some justice for the survivors, the family, the young children who were left behind? Every time we heard the same answer: "He was a smoker."

What do you do when he's not a smoker? They'd find some other reason: that he had tuberculosis. In fact, in the

1930s, 1940s and 1950s they were sending diseased miners, diseased from silicosis and lung cancers, to sanatoriums in southern Ontario on the basis of a lame diagnosis by doctors who, quite frankly, were in cahoots, as we say in my language, with the mining community's diagnosis of tuberculosis. It's amazing how many people died of TB up in Timmins. It's amazing.

But you know what happened? At one point workers got smart and they got organized. That's something workers are going to have to learn yet again. We started to organize, first among ourselves and then within our unions, to try to find the way to address this issue, because all we knew was that our guys were dying. We didn't know why. We suspected why, but we didn't have the scientific proof. I remember because I was one of those young men who —

Interjection.

Mr Bisson: We finish at 5?

The Chair: Yes.

Mr Bisson: This is really great. Let me just come to the point. The point I'm making here is, the mining community, the doctors, the board, everybody did nothing. The only time we got justice is when we finally convinced the then government to form the IDSP, as it was called at the time. We put the scientific proof before them. They did their jobs, not us, and as a result we got some justice for injured workers. You plan to bring us back to the bad old days. I say to you, Parliamentary Assistant, and I say to every one of you on the government side, people will remember this. Why? Because it is wrong. In the end, who's going to get hurt? Unfortunately it's going to be the people in the mining communities across this province, in firehalls and in smelter mills and all over who get diseased from working underground. I say shame to you or any government that would attempt to do this to injured workers.

1700

The Chair: Colleagues, as Mr Bisson indicated, it is now 5 o'clock. The time allocation motion under which we're operating states the following, and I'll quote it just so that you know:

"At 5 pm on the fourth day of clause-by-clause deliberations, those amendments which have not yet been moved shall be deemed to have been moved and the Chair of the committee shall interrupt the proceedings and shall without further debate or amendment put every question necessary to dispose of all the remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put and taken in succession with one 20-minute waiting period allowed pursuant to standing order 128(a)."

Accordingly then, I will now begin putting every question required to conclude the clause-by-clause process.

I want to ask one thing, though, colleagues. Because the committee has been honouring a standing request by Mr Christopherson for recorded votes on all the questions, may I assume there's unanimous consent to deem that the questions have been put, and, a recorded vote having been

requested on each one — if that is the case — I can then proceed with taking the divisions on each question.

Mr Christopherson: On that point, the answer is yes.

I want to raise a point of order. I'm sure there are people here today, and also I to some degree, who fail to understand how it is that given the fact that we're at number 20 and there are 256 amendments — some of those are crucial amendments on the part of the opposition. For instance, just quickly off the top of my head, we haven't yet had a chance to talk about chronic pain and what this government is doing to limit the rights of workers there, the elimination of any kind of claim for occupational stress, the loss of independence of WCAT, the fact that workers have to give up their own personal medical information or be denied compensation. We haven't even got to the 85% from 90% yet. All of these things have not been debated or discussed.

How is it that a government that says it is democratic foists on all of us a process that, at amendment number 20 out of 256, all debate ceases when we've still got all these issues outstanding? I'd like to know how a government that says it's democratic can do that to us.

The Chair: Mr Christopherson, it's not a point of order. You know that this committee conducts its business under the rules that are given to it by the House.

Mr Christopherson: I'm just assuming that there must be some mistake and so I'm seeking a clarification.

The Chair: No. That is correct.

Mr Christopherson: The government has always said that they believe in open government, transparent, balanced and fair, democratic rights.

The Chair: Mr Christopherson, that is not a point of order. You know full well —

Mr Christopherson: I've got to believe that you're misinterpreting it, Chair. It can't be, because what you're saying is not consistent with what the government is saying. So there's got to be a mistake here. There must be a mistake. This kind of undemocratic procedure couldn't be done by someone who claims to be so democratic; it couldn't possibly. You must be mistaken, Chair.

The Chair: I am following the standing orders under the rules that are given to this committee, as you well know. I need to clarify, though. Is there unanimous consent for us to deem the questions and for the recorded vote to be put on each one? Do we have unanimous consent?

Mr Christopherson: What exactly is it that you're seeking unanimous consent on? We're still going to do them one at a time?

The Chair: Yes, we'll still do one at a time. But what I'm seeking is that the recorded vote be done at that particular time, rather than having to do them all over again at the end. We deem that all motions are put and then we would have a division on each amendment as we go through them.

Mr Christopherson: That's what you'd like to do. What's the other process?

The Chair: They would be deemed to be put. We would go through them one by one and then we would go back through them for a recorded vote.

Mr Christopherson: Which one takes the longest?

The Chair: The second.

Mr Christopherson: That's what I thought. That's what I would prefer. If you need unanimous consent for an expedited process, I will gladly go on record as being opposed to granting unanimous consent.

Mr Duncan: On a point of order, Chair: If we do have to vote on these individually, would they not each have to be read into the record as well?

The Chair: No, they do not have to be read into the record. We can read the page. Just as long as we know we're all voting on the same one, we can read the page number.

Mr Duncan: Could I ask legislative counsel for an opinion on that? My understanding was the motion deemed them put but that if we're voting on an individual item, that item has to be read into the record.

The Chair: Counsel, your advice?

Mr Russell Yurkow: I would refer that to the clerk.

The Chair: We'll refer that to the clerk.

Clerk Pro Tem (Mr Todd Decker): The time allocation motion under which you're operating states that at 5 pm those motions which have not yet been moved are deemed to have been moved, which is the same as deeming them to have been read into the record.

Mr Duncan: Do the rules not prescribe, however, in the Legislature that prior to a vote we have to read them again? Correct me if I'm wrong.

Clerk Pro Tem: No.

Mr Bisson: Not with this motion.

Mr Duncan: Shut down again.

The Chair: All right. Just to clarify, we do not have unanimous consent. We'll begin with the Liberal motion on page 20. All those in favour? All those opposed? We'll defer the vote.

Mr Duncan: On a point of order, Chair: Do we not have a recorded vote on each one of these?

The Chair: We need unanimous consent to do that; otherwise we have to go through them and then come back. Let me do this slightly differently. I'm sorry. I have not done this before, so I have to be sure I'm doing this right. We'll go to page 21, a government motion: Is a recorded vote required?

Mr Duncan: My view is we should be voting on each of these amendments. They have been deemed to be put. We should be voting on them independently; otherwise we have to cast one big vote. I would much prefer to deal with each one of these individually on their merits.

The Chair: My understanding is that we do have to vote on each one separately. What we'll determine here is if a recorded vote is required for each one separately, or we can vote on it right at this point in time without a recorded vote. Mr Christopherson has a motion on the floor from some time past, indicating he wants a recorded vote on each one.

Mr Maves: We're going to vote once on all of them, defer them and then come back and vote again.

The Chair: Actually, we can just defer them.

Mr Doug Galt (Northumberland): Having recorded votes on every one is just ludicrous.

The Chair: That's what I tried to do, but we don't have unanimous consent to do that. We'll move to the Liberal motion on page 22.

Mr Christopherson: Did we do 21?

The Chair: Sorry. Government motion on page 21: Is a recorded vote required? Yes. This motion is deferred.

Liberal motion on page 22: Is a recorded vote required? Yes. This motion is deferred.

Government motion on page 23: Is a recorded vote required? Yes. This motion is deferred.

Government motion on page 24: Is a recorded vote required? Yes. This motion is deferred.

Government motion on page 25: Is a recorded vote required? Yes. This motion is deferred. That motion is on pages 25 and 26.

Liberal motion on page 27: Is a recorded vote required? Yes. The motion is deferred.

NDP motion on page 28: A recorded vote is required? Yes. This amendment is deferred.

Government motion on page 29: Is a recorded vote required? Yes. This vote is deferred.

Liberal motion on page 30: Is a recorded vote required? Yes. This vote is deferred.

Liberal motion on page 31: A recorded vote is required? Yes. This vote is deferred.

Government motion on page 32: Is a recorded vote required? Yes. This vote is deferred.

NDP motion on page 33: Is a recorded vote required? Yes. This vote is deferred.

Liberal motion on page 34: Is a recorded vote required? Yes. This vote is deferred.

Government motion on page 35: Is a recorded vote required? Yes. This vote is deferred.

NDP motion on page 36: Is a recorded vote is required? Yes. This vote is deferred. And on pages 37, 38 and 39; it's all one motion:

Liberal motion on page 40: Is a recorded vote required? Yes. This vote is deferred.

Liberal motion on page 41: Is a recorded vote required? Yes. This vote is deferred.

Government motion on page 42: Is a recorded vote required? Yes. This vote is deferred.

Government motion on page 43: Is a recorded vote required? Yes. This vote is deferred.

Liberal motion on page 44: Is a recorded vote required? Yes. This vote is deferred.

NDP motion on pages 45 and 46: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 47: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 48: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 49: Is a recorded vote required? Yes. Vote deferred.

1710

Liberal motion on page 50: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 51: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 52: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 53: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 54: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 55: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 56: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 57: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 58: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 59: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 60: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 61: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 62: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 63: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 64: Is a recorded vote required? Yes. Vote deferred.

NDP motion on page 65: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 67: Is a recorded vote required? Yes. Vote deferred.

Mr Christopherson: Sorry, was that 67 or 68, Chair?

The Chair: That was 67.

Liberal motion on page 68: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 69: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 70: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 71: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 72: Is a recorded vote required? Yes. Vote deferred.

NDP motion on page 73: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 74: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 75: Is a recorded vote required? Yes. Vote deferred.

Page 76 is an NDP motion: Is a recorded vote required? Yes. Vote deferred. That also extends to page 77 for the same motion.

Liberal motion on page 78: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 79: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 80: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 81: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 82: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 83: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 84: Is a recorded vote required? Yes. Vote deferred.

Page 85, government motion: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 86: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 87: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 88: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 89: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 90: Is a recorded vote required? Yes. Vote deferred.

Page 91, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 92, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

NDP motion on page 93: Is a recorded vote required? Yes. Vote deferred.

Page 94, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 95: Is a recorded vote required? Yes. Vote deferred.

NDP motion on page 96: Is a recorded vote required? Yes. Vote deferred.

Page 97, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 98: Is a recorded vote required? Yes. Vote deferred.

Page 99, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 100, NDP motion: Is a recorded vote required? Yes. Vote deferred.

Government motion on page 101: Is a recorded vote required? Yes. Vote deferred.

Page 102, a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 103, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 104, government motion: Is a recorded vote required? Yes. Vote deferred.

Liberal motion on page 105: Is a recorded vote required? Yes. Vote deferred.

Page 106, NDP motion: Is a recorded vote required? Yes. Vote deferred.

Page 107, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Pages 108 and 109, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 110, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 140, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 158, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 170, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 171, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 172, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 173, Liberal motion: Recorded vote needed? Vote deferred.

Page 174, NDP motion needed?

Mr Christopherson: All NDP motions are needed.

The Chair: Sorry, Is a recorded vote required? Yes. That also includes page 175. Vote deferred.

Page 176, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 177, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 178, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 179, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 180, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 181, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 182, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 183, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 184, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 185, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 186, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 187, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 188, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 189, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 190, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 191, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 192, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 193, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 194, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 195, government motion: Is a recorded vote required? Yes. Vote deferred. That same motion includes page 196.

Page 197, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 198, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 199, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 200, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 201, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 202, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 203, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 204, also government motion: Is a recorded vote required? Yes. Vote deferred.

Page 205, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 206, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 207, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 208, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 209, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 210, government motion: Is a recorded vote required? Yes. Vote deferred.

Pages 211 and 212, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 213, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 214, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 215, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 216, Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 217, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 218 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 219, government motion: Is a recorded vote required? Yes. Vote deferred.

NDP motion, page 220. Is a recorded vote required? Yes. Vote deferred.

Page 221, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 222, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 223, government motion: Is a recorded vote required? Yes. Vote deferred.

Pages 224 and 225, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 226, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 227, government motion: Is a recorded vote required? Yes. Vote deferred.

Page 228 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 229 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 230 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 231 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 232 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 233 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 234 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 235 is a Liberal motion: Is a recorded vote required? Yes. Vote deferred.

Page 236 is an NDP motion: Is a recorded vote required? Yes. Vote deferred.

Page 237 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 238 is an NDP motion: Is a recorded vote required? Yes. Vote deferred.

Page 239 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 240 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 241 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 242 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 243 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Page 244 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 245 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 246 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 247 is a government motion: Is a recorded vote required? Yes. Vote deferred.

Interjection.

The Chair: Don't break my pattern.

On page 248 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 249 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 250 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 251 is a government motion: Is a recorded vote required? Yes. This vote is deferred.

On page 252 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 253 is a government motion: Is a recorded vote required? Yes. That vote is deferred.

On page 254 is a government motion: Is a recorded vote required? Yes. Vote deferred.

On page 255 is a government motion: Is a recorded vote required? Yes. That vote is deferred.

On page 256 is a Liberal motion.

Interjection.

1730

The Chair: The last one is out of order. That will not be put.

We'll go back now for our recorded votes. We'll begin on page 20, Liberal amendment. Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

The Chair: The motion is lost.

On page 21, a government amendment. Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Carried.

Interruption.

The Chair: Order, please, so we can hear.

Shall section 4 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 4, as amended, carries.

On schedule A, section 5, Liberal amendment, page 22. Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

The Chair: The amendment is lost.

Shall section 5 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 5 shall carry.

Shall section 6 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 6, as amended, shall carry. Sorry, section 6, unamended, shall carry.

On schedule A, section 7, page 23, government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

On page 24, a government amendment: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 7 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 7, as amended, shall carry.

Moving now to section 7.1 of schedule A, government amendment, pages 25 and 26, shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

On schedule A, we'll do sections 8, 9 and 10 together. Shall sections 8, 9 and 10 carry?

Mr Christopherson: Individual recorded votes on those.

The Chair: All right. On schedule A: Shall section 8 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

On schedule A, section 9: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 9, schedule A, shall carry.

On schedule A, section 10: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This section carries.

On schedule A, section 11, this is a Liberal amendment on page 27. Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Shall section 11 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 11 of schedule A carries.

The Chair: On schedule A, section 12, NDP amendment on page 28: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On schedule A, page 29, government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 12 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 12 of schedule A carries, as amended.

On schedule A, section 13, Liberal amendment on page 30. Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On schedule A, section 13, Liberal amendment, page 31: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Shall section 13 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 13 of schedule A shall carry.

On schedule A, section 14, government amendment on page 32: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment is carried.

On schedule A, NDP motion, page 33: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

On schedule A, page 34: a Liberal amendment: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Maves, O'Toole, Ouellette, Stewart.

The Chair: The motion is lost.

Schedule A, government amendment, page 35: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Pages 36, 37, 38 and 39, an NDP amendment to schedule A: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

1740

Shall section 14, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

On schedule A, section 15: Shall section 15 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment is carried.

Shall schedule A, section 16 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The schedule carries.

On schedule A, section 17: Shall section 17 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 17 shall carry.

On schedule A, section 18: Shall section 18 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 18 carries.

On schedule A, section 19: Shall section 19 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 19, Schedule A, shall carry.

On schedule A, section 20, a Liberal amendment on page 40: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On schedule A, Liberal amendment, page 41: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Government motion on page 42: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Government amendment on page 43: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 20 of Schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 20, as amended, carries.

Interruption.

The Chair: Order, please. It's very difficult to be able to hear and for the recorded votes to be taken.

Schedule A, section 21, page 44, a Liberal amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On page 44 and page 45, shall the amendment carry?

This is an NDP amendment.

Interjection.

The Chair: No, this is one amendment. On pages 45 and 46, it's one amendment, an NDP motion. Shall that carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On page 47, a Liberal motion: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On page 48, a government amendment: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

A Liberal amendment on page 49: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

On page 50, a Liberal amendment: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Shall section 21 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 21 of schedule A, as amended, carries.

On schedule A, section 22: Shall section 22 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 22 of schedule A carries.

On schedule A, section 23: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 23 of schedule A carries.

On schedule A, section 24, page 51, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 24 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 24 of schedule A, as amended, carries.

On schedule A, section 25, a government amendment, page 52: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 25 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 25, as amended, carries.

On schedule A, section 26, a government amendment, page 53: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

Shall section 26 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 26 of schedule A, as amended, carries.

On schedule A, section 27, a Liberal amendment, page 54: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

On page 55, a government amendment: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

1750

Shall section 27 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

Interruption.

The Chair: Order, please. We have to be able to hear as the recorded vote is read out.

On schedule A, section 28: Shall section 28 of this schedule carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 28 of schedule A carries.

On schedule A, section 29, a government amendment, page 56: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

On schedule A, a government amendment, page 57: Shall the amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 29 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 29 of schedule A, as amended, carries.

On schedule A, section 30: Shall section 30 of schedule A carry?

Mr Christopherson: Page 58 refers to section 30. Is that an amendment?

The Chair: Just one moment. We were checking something.

Yes, there is an amendment on page 58. That amendment is out of order, so we will continue on.

On schedule A, section 30 —

Mr Christopherson: On a point of order, Madam Chair: For some kind of consistency, could we have an explanation of why this motion's out of order? It's the first time we've heard that. Not that I think it's a great idea or

a bad idea, but I would like to know what the legal argument is for withdrawing it.

The Chair: The amendment to delete the whole section is out of order. It has to be done individually; that's why.

Mr Christopherson: You're saying there has to be an amendment to a specific part of the section, and this isn't?

The Chair: Yes, it is out of order to have an amendment that speaks to an entire section.

Mr Christopherson: I see. It's because it's not specific within the section?

The Chair: You would simply vote against it, yes.

Mr Christopherson: Is that right? It's because it's not specific within the section?

The Chair: That's correct, as I understand it, yes.

Mr Duncan: Then am I misinterpreting that the government's recommending voting against its own bill in this clause? The government recommends voting against section 30. You're recommending voting against your own bill.

The Chair: That's not a point of order. We're dealing with the specifics of how they —

Mr Duncan: Just thought I'd ask.

The Chair: Moving to schedule A, section 30: Shall section 30 of schedule A carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This section is lost.

On schedule A — order, please. There are so many conversations going on, it's very difficult to hear.

On schedule A, section 31, a government amendment, page 59: Shall that amendment carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

An amendment on page 60, a government amendment: Shall that amendment carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

Shall section 31 of schedule A carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 31 of schedule A, as amended, carries.

On schedule A, section 32, a Liberal amendment, page 61: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Maves, O'Toole, Ouellette.

The Chair: This amendment is lost.

Section 32 of schedule A, a government amendment, page 62: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 32 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 32 of schedule A, as amended, carries.

On schedule A, section 33, a government amendment on page 63: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Schedule A, subsection 33(2), Liberal amendment, page 64: Shall this amendment carry?

Ayes

Christopherson, DeFaria, Duncan, Galt, Hastings, Hoy, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment carries.

Also on schedule A, section 33, an NDP amendment, on page 65 —

Mr Maves: On a point of order, Madam Chair: This is identical to the previous one.

The Chair: Yes, it is identical, so it is out of order.

Moving to page 66, a Liberal amendment: Shall the amendment carry?

Ayes

Christopherson, Duncan, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Page 67, a Liberal amendment: Shall the amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

1800

A Liberal amendment on page 68 to schedule A, section 33: Shall the amendment carry?

Ayes

Duncan, Hoy.

Nays

Christopherson, DeFaria, Galt, Hastings, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Page 69, a Liberal amendment: Shall the amendment carry?

Ayes

Duncan, Hoy.

Nays

Christopherson, DeFaria, Galt, Hastings, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Shall section 33 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 33 of schedule A, as amended, carries.

On schedule A, section 34, a government amendment on page 70: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 34 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 34 of schedule A, as amended, carries.

On schedule A, section 35, page 71, a Liberal amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Shall section 35 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 35 of schedule A carries.

Schedule A, section 36, a government amendment, page 72: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

NDP amendment, page 73: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Government amendment on page 74: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 36 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 36 of schedule A, as amended, shall carry.

Schedule A, section 37, a Liberal amendment, page 75: Shall this amendment carry?

Ayes

Duncan, Hoy.

Nays

Christopherson, DeFaria, Galt, Hastings, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

NDP amendment on pages 76 and 77: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Liberal amendment on page 78: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Government amendment on page 79: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 37 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 37 of schedule A, as amended, carries.

On schedule A, section 38, a Liberal amendment on page 80: Shall this amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The Liberal amendment on page 80 is lost. Shall section 38 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 38 of schedule A carries.

On schedule A, section 39, a Liberal amendment, page 81: Shall this amendment carry?

Ayes

Hoy.

Nays

Christopherson, DeFaria, Hastings, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

Shall section 39 of schedule A carry?

Ayes

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 39 of schedule A carries.

Schedule A, section 40, government amendment, page 82: Shall this amendment carry?

Ayes

DeFaria, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Order, please. If you have a private conversation to carry on, would you please do that outside so that the members of the committee can hear the vote being called?

Government amendment on page 83: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Government amendment, page 84: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Page 85, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Page 85, a government amendment: Shall this amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

A Liberal amendment on page 87: Shall this amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Government amendment on page 88: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Government amendment on page 89: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.

Liberal amendment on page 90: Shall this amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

1810

The Chair: This amendment is lost.

Shall section 40 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 40, then, of schedule A, as amended, does carry.

On schedule A, section 41, a government amendment on page 91: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

A Liberal amendment on page 92: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

NDP amendment on page 93: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This motion is lost.

A Liberal amendment on page 94: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

Shall the Liberal amendment on page 95 carry?

Ayes

Duncan, Hoy.

Nays

Christopherson, DeFaria, Galt, Hastings, Jordan, Martel, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

On page 96, an NDP amendment: Shall that amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

On page 97, a Liberal amendment: Shall that amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

A government amendment on page 98: Shall that amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment is carried.

Schedule A, a Liberal amendment on page 99: Shall that amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

NDP motion on page 100: Shall that amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

A government motion, page 101: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Page 102, a government amendment: Shall this motion carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 41 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 41 of schedule A, as amended, carries.

Schedule A, section 42, a government amendment on page 103: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 104, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

A Liberal amendment, page 105: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

NDP amendment on page 106: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The motion is lost.

Page 107, a Liberal amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Pages 108 and 109 are one amendment; it's a government amendment. Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 42 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 42 of schedule A, as amended, carries.

Part VI of schedule A, a government amendment, page 110: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

On schedule A, section 43, a government amendment, page 111: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Page 112 is a Liberal amendment. Shall this motion carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This motion is lost.

An NDP amendment on page 113: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Page 114, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

A government amendment, page 115: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Liberal amendment, page 116: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This is lost.

Liberal amendment, page 117: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Lost.

NDP amendment, page 118: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

A Liberal amendment, page 119: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

Page 120, a Liberal amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Lost.

1820

Page 121, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 122, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 43 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 43 of schedule A, as amended, carries.

Schedule A, section 44, an amendment on page 23: This is a Liberal amendment. Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Lost.

Shall section 44 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 44 of schedule A carries.

Schedule A, section 45, a Liberal amendment, page 124: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

An NDP motion, page 125: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Lost.

A government amendment, page 126: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

A government amendment, page 127: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Carries.

Schedule A, page 128, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 45 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 45 of schedule A, as amended, carries.

Schedule A, section 46, a government amendment, page 129: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 130, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 46 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 46 of schedule A, as amended, carries.

Schedule A, section 47: Shall the Liberal amendment on page 131 carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: It's lost.

A government amendment, page 132: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

A government amendment, page 133: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Shall section 47 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Opposed?

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 47 of schedule A, as amended, does carry.

Schedule A, section 48, a government amendment, page 134: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

A government amendment, page 135: Does this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

An NDP amendment on page 136: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Lost.

A government amendment, page 137: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment is carried.

A government amendment, page 138: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 139, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 140, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Opposed?

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

A Liberal amendment, page 141: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: The amendment is lost.

A government amendment on page 142. Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Opposed?

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This carries.

A government amendment on page 143: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Opposed?

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

A government amendment on page 144: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

Page 145, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Carries.

Page 146, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 147, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Page 148, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: That amendment carries.

A government amendment on page 149: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

On page 150, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Page 151 is also a government amendment. Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Carried.

Shall section 48 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

1830

The Chair: Section 48 of schedule A, as amended, does carry.

Schedule A, section 49, a Liberal amendment on page 152: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: This amendment is lost.

Shall section 49 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 49 of schedule A does carry.

Schedule A, section 50: Shall section 50 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 50 of schedule A does carry.

Schedule A, section 51, a government amendment on page 153. Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Shall section 51 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 51 of schedule A, as amended, does carry.

Schedule A, section 52, a government amendment on page 54: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: The amendment carries.

Shall section 52 of schedule A, as amended, then carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 52 of schedule A, as amended, does carry.

Schedule A, section 53, an NDP amendment on page 155: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: It is lost.

Page 156, an NDP amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment also is lost.

On page 157, a Liberal amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Also lost.

Shall section 53 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 53 of schedule A does carry.

Schedule A, section 54: Shall this section of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 54 of schedule A does carry.

Schedule A, section 55: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 55 of schedule A does carry.

Schedule A, section 56: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 56, does carry.

Schedule A, section 57, a government amendment, page 158: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Shall section 57 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 57 of schedule A, as amended, does carry.

Schedule A, section 58: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 58 of schedule A does carry.

Schedule A, section 59: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 59 of schedule A does carry.

Schedule A, section 60, a government amendment, page 159: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

A government amendment, page 160: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Schedule A, a government amendment, page 161: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This carries.

Page 162, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Shall section 60 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 60 of schedule A, as amended, does carry.

Schedule A, section 60.1, a government amendment, pages 163 and 164: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It carries.

Schedule A, section 61: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 61 of schedule A does carry.
Schedule A, section 62: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 62 of schedule A does carry.
Schedule A, section 63: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 63, does carry.
Schedule A, section 64, a government amendment, page 165: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment is carried.
Page 166, a government amendment: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment does carry.
Shall section 64 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 64 of schedule A, as amended, does carry.

Schedule A, section 65: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 65 of schedule A does carry.
Schedule A, section 66: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: It does carry.
Schedule A, section 67: Does this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 67, schedule A, does carry.
Schedule A, section 68: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 68, does carry.
Schedule A, section 69: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 69, schedule A, does carry.
Schedule A, section 70: Does this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 70, does carry.
Schedule A, section 71: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 71, does carry.
1840

Schedule A, section 72, a government amendment, page 167: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: It carries.
Shall section 72 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 72 of schedule A, as amended, does carry.

Schedule A, section 73: Shall this carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 73, schedule A, does carry.
Schedule A, section 74: Shall this carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Schedule A, section 74, does carry.
Schedule A, section 75, government amendment, page 168: Shall this amendment carry?

Ayes

Galt, Hastings, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: This amendment carries.
Shall section 75 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 75 of schedule A, as amended, does carry.

Shall section 76 of schedule A carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 76 of schedule A does carry.
Schedule A, section 77, government amendment, page 169: Shall this amendment carry?

Ayes

Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: The amendment carries.
Shall section 77 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 77 of schedule A, as amended, does carry.

On schedule A, section 78: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 78 of schedule A does carry.
Schedule A, section 79: Shall this carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Martel.

The Chair: Section 79, schedule A, does carry.
Schedule A, section 80, amendment by the government
on page 170: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.
A government amendment on page 171: Shall this
amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment is carried.
A Liberal amendment, page 172: Shall this amendment
carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

The Chair: This amendment is lost.
Shall section 80 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 80 of schedule A, as amended,
does carry.
Schedule A, section 81: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 81, schedule A, does carry.
Schedule A, section 82, Liberal amendment, page 173:
Shall this amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

The Chair: This Liberal amendment is lost.
NDP amendment on pages 174 and 175: Shall this
amendment carry?

Ayes

Christopherson, Hoy, Martel.

Nays

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

The Chair: It is lost.
Page 176, a government amendment: Shall this
amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.
Shall section 82 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 82 of schedule A, as amended,
does carry.
Section 82.1 of schedule A, a government amendment,
page 177: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.
Schedule A, section 33: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 83 of schedule A does carry.
Schedule A, section 84: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 84 of schedule A carries.
Schedule A, section 85: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 85 of schedule A carries.
Shall schedule A, section 86, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 86 of schedule A carries.
On schedule A, section 87, a government amendment on page 178: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: This amendment carries.
Shall section 87 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 87 of schedule A, as amended, does carry.

Schedule A, section 88: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Hoy, Martel.

The Chair: Section 88, schedule A, does carry.
Schedule A, section 89: Shall this section carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Schedule A, section 89, does carry.
Schedule A, section 90, there is a government amendment, page 179: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.
Schedule A, a government amendment on page 180: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.
Shall section 90 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 90 of schedule A, as amended, does carry.

Schedule A, section 91, a government amendment on page 181: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: This amendment carries.

Another amendment on page 182, a government amendment: Shall this amendment carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

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The Chair: This amendment is carried.

Shall section 91 of schedule A, as amended, carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 91 of schedule A, as amended, does carry.

Schedule A, section 92, a Liberal amendment on page 183: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy, Martel.

Nays

Galt, Hastings, Maves, O'Toole, Ouellette.

The Chair: This is lost.

Shall section 92 of schedule A carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy, Martel.

The Chair: Section 92 of schedule A does carry.

Shall a government amendment on section 92.1 of schedule A on page 184 carry?

Ayes

Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

On schedule A, section 93, page 185, a government amendment: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 93 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 93 of schedule A, as amended, does carry.

Schedule A, section 94, government amendment, page 186: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 94 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 94 of schedule A, as amended, does carry.

Schedule A, section 95, a Liberal amendment, page 187: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

The Chair: Lost.

Shall section 95 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 95 of schedule A does carry.

Schedule 95.1 of schedule A, a government amendment on page 188: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment is carried.

On schedule A, section 96: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This section carries.

Part IX of schedule A, a government amendment, page 189: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

On schedule A, section 97, a government amendment on page 190: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 97 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 97 of schedule A, as amended, carries.

Schedule A, section 98, a government amendment on page 191: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 98 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 98 of schedule A, as amended, does carry.

Schedule A, section 99: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 99 of schedule A does carry.

Schedule A, section 100, a government amendment, page 192.

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: The amendment carries.

Shall section 100 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Jordan, Maves, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 100 of schedule A, as amended, does carry.

Schedule A, section 101, a government amendment on page 193: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Shall section 101 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 101 of schedule A, as amended, does carry.

Schedule A, section 102, a government amendment on page 194: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 102 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 102 of schedule A, as amended, carries.

Schedule A, section 103, a government amendment on pages 195 and 196: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 103 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 103 of schedule A, as amended, does carry.

Schedule A, section 104, a government amendment on page 197: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Page 198, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment also carries.

Page 199, a government amendment to section 104: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Carried.

Government amendment on page 200: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

A government amendment on page 201 to section 104: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment also carries.

Page 202, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Page 203, a government amendment: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 104 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 104 of schedule A, as amended, does carry

Section 104.1 of schedule A, a government amendment, page 204: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

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On schedule A, section 105, a government amendment on page 205: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: The amendment carries.

Government amendment, page 206: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Page 207, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

A government amendment on page 208: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 105 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 105 of schedule A, as amended, does carry.

Schedule A, section 106, a government amendment on page 209: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

On 210, a government amendment: Shall that carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment also carries.

Shall section 106 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 106 of schedule A, as amended, does carry.

Section 106.1 of schedule A, a government amendment on pages 211 and 212: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Schedule A, section 107: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 107, does carry.

Schedule A, section 108: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries. Section 108, schedule A, does carry.

Schedule A, section 109: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 109 of schedule A carries.

Schedule A, section 110: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 110 of schedule A does carry.

Schedule A, section 111: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 111 of schedule A carries.

Schedule A, section 112: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 112, carries.

On schedule A, section 113, a government amendment on page 213: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 113 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 113 of schedule A, as amended, does carry.

On schedule A, section 114, government amendment on page 214: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 114 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 114 of schedule A, as amended, does carry.

Schedule A, section 115, a government amendment on page 215: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 115 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 115 of schedule A, as amended, does carry.

Section A, section 116: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 116 of schedule A carries.

Section A, section 117, a Liberal amendment on page 216: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

The Chair: It's lost.

On 217, a government amendment: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Government amendment on page 218: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

An amendment on page 219, a government amendment:
Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment is carried.
Shall section 117 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 117 of schedule A, as amended, is
carried.

On schedule A, section 118, an NDP amendment on
page 220: Shall that amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

The Chair: That is lost.

On page 221, a government amendment: Shall that
amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.
Shall section 118 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 118, as amended, car-
ries.

On schedule A, section 119, a government amendment
on page 222: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

An amendment on page 223, a government amendment:
Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.
Shall section 119 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 119 of schedule A, as amended,
does carry.

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Section 119.1 of schedule A, a government amendment
on pages 224 and 225: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It's carried.

On schedule A, section 120, a government amendment
on page 226: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Page 227, a government amendment: Shall that amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Shall section 120 of schedule A then, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 120 of schedule A, as amended, carries.

Schedule A, section 121: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 121 of schedule A carries.

Shall section 122 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 122 of schedule A carries.

Schedule A, section 123: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 123 carries.

Schedule A, section 124: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 124, schedule A, carries.

Schedule A, section 125: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 125 of schedule A carries.

On schedule A, section 126, a government amendment on page 228: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 126 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 126 of schedule A, as amended, carries.

Schedule A, section 127, a government amendment, page 229: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 127 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 127 of schedule A, as amended, carries.

Schedule A, section 128, does this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 128, schedule A, carries.

Schedule A, section 129: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 129, schedule A, carries.

Schedule A, section 130: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 130 carries.

Schedule, section 131, a government amendment on page 230: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 131 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Carried.

Schedule A, section 132: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It is carried. Section 132 of schedule A is carried.

Schedule A, section 133: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 133 of schedule A carries.

Section 134 of schedule A, shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 134 of schedule A carries.

Schedule A, section 135, a government amendment on page 231: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Shall section 135 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 135 of schedule A, as amended, carries.

Schedule A, section 136: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 136 of schedule A carries.
Schedule A, section 137: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 137 of schedule A carries.
Schedule A, section 138: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 138 of schedule A carries.
Schedule A, section 139: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 139 of schedule A carries.
Schedule A, section 140: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 140 of schedule A carries.
Schedule A, section 141: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 141 of schedule A carries.
On schedule A, section 142, a government amendment
on page 232: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.
Shall section 142 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 142 of schedule A, as amended,
carries.

Schedule A, section 143, a government amendment on
page 233: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.
Shall section 143 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole,
Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 143 of schedule A, as amended,
carries.

Section 144, schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Maves.

The Chair: Schedule A, section 144, carries.
Schedule A, section 145: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 145 carries.
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Schedule A, section 146: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 146 of schedule A carries.
Schedule A, section 147: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 147 of schedule A carries.
Section 148 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 148 of schedule A carries.
On schedule A, section 149, this is a government amendment on page 234. Oh sorry, this is also out of order.

Interjections.

Clerk Pro Tem: It's not in order to move a motion to strike out a section of a bill. The proper thing to do is

simply vote against the section as standing as part of the bill.

The Chair: I'm sorry. Same as before; exactly the same.

Schedule A, section 149: Shall that section carry?

Nays

DeFaria, Duncan, Galt, Hastings, Hoy, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: Section 149 of schedule A is lost.
Schedule A, section 150: Shall this section carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That section carries.
Schedule A, section 151: Shall that section carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Schedule A, section 151, carries.
Schedule A, section 152: Shall this section carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 152 of schedule A carries.
Schedule A, section 153, a Liberal amendment on page 235: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.
There's an NDP amendment on page 236: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That amendment is lost.

Another amendment on page 237, a government amendment: Shall it carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Page 238, also an NDP amendment: Shall this amendment carry?

Ayes

Christopherson, Duncan, Hoy.

Nays

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: It's lost.

Page 239, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment is carried.

A government amendment on page 240: Shall the amendment carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment is carried.

Shall section 153 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 153 of schedule A, as amended, carries.

Schedule A, section 154: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 154, schedule A, is carried.

Schedule A, section 155, a government amendment on page 241: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: This amendment carries.

Shall section 155 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 155 of schedule A, as amended, does carry.

Section A, section 156: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 156 of schedule A carries.

Section 157 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 157 of schedule A does carry.
Shall section 158 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 158 of schedule A carries.
Section 159 of schedule A: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 159 of schedule A carries.
Section 160 of schedule A: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 160 of schedule A carries.
Section 161 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 161 of schedule A carries.
Section 162 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 162 of schedule A carries.
Section 163 of schedule A: Does this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 163 of schedule A does carry.
Schedule A, section 164, a government amendment on page 242: Shall this amendment carry? Sorry, this is also out of order.

Shall section 164 of schedule A carry?

Nays

Christopherson, DeFaria, Duncan, Galt, Hastings, Hoy, Jordan, Maves, O'Toole, Ouellette, Stewart.

The Chair: That section is lost. Section 164 of schedule A is lost.

Schedule A, section 165: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

1930

The Chair: Section 165 of schedule A carries.
Section 166 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 166 of schedule A carries.
Section 167 of schedule A: Shall this section carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 167 of schedule A carries.

On schedule A, section 168, a government amendment on page 243: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.

Page 244, government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Page 245, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Shall section 168 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 168 of schedule A, as amended, does carry.

On schedule A, section 169, a government amendment on page 246: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

A government amendment on page 247: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

An amendment on page 248, also a government amendment: Shall it carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Shall section 169 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 169 of schedule A carries.

Schedule A, section 170: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 170 of schedule A carries.

Schedule A, section 171: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 171 of schedule A carries.

Shall section 172 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 172 of schedule A carries.
Shall section 173 of schedule A carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 173 of schedule A carries.
On schedule A, section 174: Shall the amendment on page 249 carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment is carried.
Another amendment on page 250, a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.
Shall section 174 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 174 of schedule A, as amended, carries.
Schedule A, section 175, a government amendment on page 251: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment carries.
Another amendment, page 252, also a government amendment: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.
Shall section 175 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 175 of schedule A, as amended, carries.

On schedule A, section 176, there is a government amendment on page 253: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.
Shall section 176 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 176 of schedule A, as amended, carries.

Section 177 of schedule A: Shall this carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 177 of schedule A carries.

Section 178, schedule A, a government amendment on page 254: Shall this amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: That amendment is carried.

Shall section 178 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 178 of schedule A, as amended, carries.

Section 179, schedule A, a government amendment on page 255: Shall that amendment carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It carries.

Shall section 179 of schedule A, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Section 179, schedule A, as amended, carries.

Shall the schedule, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: The schedule, as amended, will carry.

Shall the long title of the bill carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: The long title, not amended, shall carry.

Shall the short title of this bill, not amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: The short title of the bill shall carry.

Shall Bill 99, as amended, carry?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: Bill 99, as amended, shall carry.

Shall I report Bill 99, as amended, to the House?

Ayes

DeFaria, Galt, Hastings, Jordan, Maves, O'Toole, Ouellette, Stewart.

Nays

Christopherson, Duncan, Hoy.

The Chair: It shall be reported.

That concludes our clause-by-clause review of this bill. We will stand adjourned and reconvene at the call of the Chair.

The committee adjourned at 1941.

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Ms Shelley Martel (Sudbury East / -Est ND)
Mr R. Gary Stewart (Peterborough PC)

Also taking part / Autres participants et participantes

Mr Gilles Bisson (Cochrane South / -Sud ND)
Mr Bart Maves, parliamentary assistant to Minister of Labour
Ms Marguerite Rappolt, director, prevention and compensation policy branch, LAB

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**Legislative Assembly
of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Monday 22 September 1997

**Journal
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Monday 22 September 1997

Lundi 22 septembre 1997

The committee met at 1600 in committee room 1.

SUBCOMMITTEE REPORT

The Chair (Mrs Brenda Elliott): Good afternoon. We'll call to order the standing committee on resources development, meeting for the purposes of organization on Bill 136.

You have before you a report from the subcommittee. Do I have someone who will make a motion to adopt the subcommittee report, please?

Ms Shelley Martel (Sudbury East): I move that the motion by the subcommittee be adopted.

The Chair: Is there any discussion on this?

Ms Martel: Let me kick it off and say that I support the report from the subcommittee, a meeting that was held late last Thursday afternoon after the rather astonishing announcement that was made in the House by the Minister of Labour, which I'm sure caught not only us by surprise, but caught the back bench completely by surprise as well. However, with respect to the motion, let me say a couple of things.

It is my belief that unless the government backbenchers support this subcommittee report, it will be clear to everyone in this province that this whole process, the public hearings and the clause-by-clause, is a complete farce, and you will wear that.

This government already has a reputation of shooting first and asking about casualties later. I'm going to tell you, if you proceed in the manner that is outlined in the time allocation motion that was rammed through the House last week, that idea of your government will only be reinforced. It will be very clear, if you don't support the subcommittee motion, that you are in a huge hurry to get this done; in fact, in such a big hurry that you do not want to hear from the public about this bill.

I can also assure you that you'll be in such a hurry that you will make all kinds of mistakes because you will not have time to pay attention to the important details. This government will find itself right back in the same situation that it did with Bill 26, where the opposition members had to use very extraordinary means in order to get any public hearings. The public hearings were then rushed. The motions and the amendments were worked on over a weekend and the government found to its huge embarrassment that it had to amend some of its own amendments during that clause-by-clause.

You will find the same thing will happen here because the way the time allocation motion is written can only lead to that very problem. By the mere fact that on Friday night the public hearings will end and on Monday morning at 10 everyone's amendments will have to be in will lead to a problem where your government will miss the important details and we will all be stuck with a bill that will be badly written and a process that will make it clear to everyone that the government had no intention of listening in the first place.

Let me remind the government members of a couple of things. Number one, most importantly, it was your Minister of Labour who made a promise that there would be full province-wide public hearings on Bill 136. She made that promise in this assembly only a few short months ago. In fact, on June 4 she told the Legislature, and I quote: "Yes, I commit to you that there will be full public hearings. We will travel the province, we will be in Toronto and we will listen."

She clearly broke that promise last week when your government laid on the rest of us a time allocation motion which rams this process right through committee, which does not involve any public input outside of the city of Toronto and allows for extremely limited input in the city of Toronto.

I don't buy into the argument that somehow teleconferencing is actually going into people's communities and hearing from them directly. I don't believe that teleconferencing is going to work very well, if it works at all, to allow people from outside of Toronto who have a right to be heard to have that right to be heard.

I say to the government backbenchers, do you really want to suffer the embarrassment of having to save face for your minister who made a very specific commitment to the House only a few short months ago? Her promise was not six or nine months ago; it was a promise made three short months ago with respect to how the government was going to deal with public hearings, and that commitment was very specific: full public hearings. "We will travel the province, we will be in Toronto and we will listen."

If you don't agree to the subcommittee motion, which calls upon this committee to have extensive public hearings, which calls upon this committee to reinforce the promise the minister made, then it will be clear that as government members you're just in here to toe the line from your minister, that you're not interested in hearing from the public, you're afraid to hear from the public, you

don't want to go into communities and face the music by people in those communities who have serious concerns about this bill. It will be very clear that all you want to do and all you're here to do today in this committee is to toe the line from your minister or your Premier and to get this thing over with as fast as you possibly can. I don't think some of you really want to wear that.

The second point I want to raise is that last week, your minister, in what appears on face value to be a dramatic about-face, accepted any number of changes to Bill 136 that had been put forward by the Ontario Federation of Labour. Any of you who were in the House on Thursday will recall that she went through the bill and, point after point, pointed out where the government was going to change its mind and where the government was going to accept the recommendation put forward by the Ontario Federation of Labour.

As far as I'm concerned, that means that last week, at P and P on Monday night and then at cabinet on Wednesday, your cabinet probably saw some very specific details about the changes which are going to be made. Otherwise, neither the Premier nor the Minister of Labour would have got up and made the statement they did. As a former minister, I know you can't get up and make those kinds of changes without having had the agreement first of P and P and then of cabinet. So there's no doubt in my mind that some very detailed work has already been done with respect to the sections the minister intends to change and that, if they haven't been done already, legal staff are now preparing the amendments which back up those changes.

There's no doubt in my mind that this committee and the public who are expected to talk about this bill starting tomorrow should be given those detailed amendments, those detailed changes. It is unacceptable, completely ridiculous, to ask the public to come to this place tomorrow, Wednesday, Thursday and Friday and not have a bloody clue what they're supposed to talk about, what they're supposed to make recommendations about.

You have a bill which on face value, if you trust what the minister is saying — and I'm not going to go so far as to say that I do, given her backing down already on public hearings. But on face value, if anyone out there does trust the minister, they're not going to have a clue what they're supposed to talk about. Do they talk about the bill in its current form? Do they talk about the changes she announced in her statement that she made in the Legislature on Thursday?

I think this government owes it to the people who are going to make an effort in a very short time to come here this week to try to talk about their concerns to give this committee and those people the amendments. I have no doubt that they are already drafted and ready. It's unacceptable to me that a minister who has already broken her word with respect to public hearings would not now at least show some modicum of respect for people and give the people who are expected to come and participate the amendments, never mind what I think about the respect she should show committee members and this assembly with respect to those same amendments.

So again we talk about how there should be a change to the time allocation motion so that we can see those amendments, so that the public can have them before them before they come to make public comments and we can make what, at this point, appears to be a farce of a process have some kind of meaning. I say to the government members, if you can't agree even with respect to the importance of having the amendments before us before we start this process, you will support and you will reinforce the notion that you don't want to hear from the public and you just want to ram this thing down everyone's throat as fast as you can.

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Let me deal with a third point around notification. I understand that this subcommittee met late last Thursday afternoon to deal with the astonishing announcement that was made in the House and to deal with the fallout and the consequences from that and from the time allocation motion. It is clear that there is no opportunity and there was no opportunity even starting late Thursday afternoon to try to notify people to come and participate in public hearings, which begin in this place tomorrow afternoon. As government members, you must be a little embarrassed about the situation that you now find yourselves in and that you have been placed in.

It is becoming painfully obvious to everyone, given how draconian the time allocation motion was, that the government didn't really want to have enough time to notify people, because the government isn't interested in having people come out and have their say. That's clear from the minister breaking her promise; that's clear from how draconian the time allocation motion is; that's clear because the fallout is that there isn't enough time to realistically notify people and get them to come and participate in a meaningful way, as they should be allowed to participate in this place.

What we are saying is that the whole process that we now find ourselves in with respect to the time allocation motion leaves us in a position that everyone who tries to make it here and come before this committee will have suffered from not having been adequately notified and certainly will suffer because they won't know if they should talk about the current bill or talk about the changes that the minister had in her statement, if you can believe it, on Thursday.

The whole notification process has been a joke. It's no wonder that we voted not to even bother to insult people in such a way. Here we are with this group no doubt tomorrow wanting to kick off a process that is just ridiculous and that will be an insult to people who are going to take time out of their busy schedules to come and talk about this bill because they have serious concerns and they want to see some changes.

The fourth point: What should people talk about? We are showing disrespect to the public by forcing them to come in here tomorrow and not know what they should talk about because they haven't seen the amendments. All they've got before them is a statement that the minister made in the House which, if you take it on face value,

looks like a capitulation of this government with respect to Bill 136. I don't think we should insult the public in that way. The public deserves better. If this assembly is an assembly that's going to invite people to come and have their say, then for goodness' sake they should have in front of them the materials they need to be properly informed and to properly inform this committee about their concerns and about possible recommendations.

It's a slap in the face to expect people to come in here tomorrow and try to choose between talking about their concerns about Bill 136 or the changes that the minister announced, because there is such a difference in the two. If this government wanted to be credible at all with respect to this bill and credible at all with respect to some of their pious words about how they have listened, then this government would do the right thing, the decent thing, and withdraw the bill, because as it stands, based on what the minister has said, if you want to believe her, her announcement represents a gutting of the act that is before us.

The only right thing to do, if you're at all interested in doing this properly and paying attention to the details, would be to redraft the bill, have extensive, province-wide public hearings as promised by your minister, and have a decent time for clause-by-clause that lets people think about what they heard at the public hearings and lets the parties then have some time to draft the amendments. Then have a thorough debate again on third reading so that you can actually know that the bill you've got has had some input from the public, has had some viewing by the public, and that the recommendations you are dealing with have really come from the public and have not been foisted on you from above, from either your minister or your Premier.

I don't believe teleconferencing is going to work. I think it's a sick, lame excuse to having province-wide public hearings. If you folks had any courage at all as a government back bench and if you really believed in this bill, then you would do what your minister said she was going to do, which is to support province-wide public hearings. That's the commitment she made in this place three short months ago. That's a commitment she made publicly. That's a commitment she made to the people of the province.

By not doing that, by hiding behind the time allocation motion, all I can say is that the group of you look like cowards, because it looks like you don't want to go face the public, you don't want to hear what they have to say, you don't want to go into our communities, and you're trying to pretend that somehow the method of teleconferencing is going to work to satisfy those people who live outside of Toronto and want to have their say.

I'd be surprised if the parliamentary assistant can tell me here today how the teleconferencing is even supposed to work, and if I have people from the Sudbury and District Labour Council who want to participate in Sudbury, how they're supposed to click in and be part of this process some time this week. As far as I'm concerned, it's a lame excuse by the minister — and she looked lame

when she used it — to try and wash away the commitment she made, which was very public, about those hearings across the province.

Do not be so silly as to support such a lame and sick excuse for public hearings, because that's all the teleconferencing method is. You don't have enough time, starting tomorrow afternoon, to even make that work. So don't insult the public even more by first suggesting we won't have public hearings across the province and then by suggesting that somehow teleconferencing is going to accommodate them. The public won't buy it, and you don't have enough time to pay attention to the important details to make teleconferencing a reality.

In conclusion, I want to say to this committee, to the backbenchers of the government caucus on this committee, as strongly as I can: The subcommittee has placed before you an important resolution, an important report which I am urging you to adopt. It calls upon you as government backbenchers to support the promise, the commitment that your own Minister of Labour made, which I will repeat: "Yes, I commit to you that there will be full public hearings. We will travel the province, we will be in Toronto and we will listen." This subcommittee report calls upon you to make that happen, just like she promised the public in this province.

Secondly, the subcommittee report calls upon the government House leader to move an amendment to the time allocation motion that would allow for those very same province-wide public hearings promised by your minister, and it changes the process so that there will be time from the end of the province-wide public hearings and the start of the clause-by-clause to let all parties think about the information that has come before them and put together some decent and proper amendments. There is no time under the current time allocation motion to make that happen. No one in this place is going to convince me that ending public hearings at 5 on Friday night and having to put in our final set of amendments at 10 o'clock Monday morning is a process that's either democratic, suitable, or one that the public buys into.

You are going to make mistakes just like you did with Bill 26 because you don't have the time to pay attention to the important details. We will have a bill that is already flawed, in my opinion, if we're dealing with the current Bill 136. Even if I buy some of the minister's statements, which I don't, given her past record, you will have a bill that will be badly flawed and will not work for anyone.

Finally, the subcommittee report calls on the Minister of Labour to make the amendments public, the amendments that she announced in the House last Thursday she was going to make, so that we show some respect for the members of this assembly and we show some respect for the public and we allow the public to see the changes in fine print. I don't believe this bill is as good as the minister says, because she already broke her word with respect to public hearings. I want to see the amendments in black and white, and I think the public who we are asking to come and comment on this bill need to see it in black and white as well.

I say in conclusion to the committee, if you don't agree to the subcommittee report, it will be very clear that you have no interest in listening to the public, you don't want to hear, you don't have enough courage to go into those communities to hear, and at the end of the day you have been told to come in here today and shut this process down as fast as you can and get this bill over and done with as fast as you can. I assure you, you will wear that.

1620

Mr Richard Patten (Ottawa Centre): I hope the committee has listened carefully to Ms Martel's comments. I have, and I agree with almost everything she has said. I think it's a sad day, frankly, to see the way in which the government is proceeding and the way in which they are able to proceed based on the rule changes they have instituted. When we look around — and all members, I'm sure, feel this — we see the cynicism of people towards government, towards politicians. When I ask, "Why are you so cynical?" they say, "Because we can't trust the politicians; you say one thing and do another."

Laughter.

Mr Patten: Mr Froese laughs. Your minister, when I asked her in the House on June 4 if she would have hearings, said yes, she would, and she would travel the province, as has been pointed out numerous times. Of course, in compensation for that or in an attempt to weasel out of it, she put some kind of idea before us to say, "Well, we are travelling the province through the wonders of the electronic medium, teleconferencing."

There was a briefing, by the way — and some of you were at that briefing so you'll know — by legislative technicians handling the capacity of this House. We also had a teleconference with people from Manitoba who operated it, a member and one of the clerks of the House. I asked them that particular question, "Does teleconferencing replace in any way," because this would be the worry of other people, "face-to-face public hearings?" They said, "By all means, no." It does not replace that. Indeed, where it can be useful is where you have places that are not as central to populated areas and you have less than five requests from an area, where this may be a good opportunity to involve people. So it's not a replacement.

The other reality is that we were advised by the legislative technicians who operate this that they need two weeks' notice in order to set up teleconferencing arrangements. You have to notify people, you have to find an appropriate place, you have to decide on what places you're talking about etc. If you stick to the schedule as proposed, it becomes farcical, because there's no way that can even be attempted. So teleconferencing is not really an option.

It means the minister went back on her word. I'm sure she didn't want to do that. I know the minister a little bit and I'm sure she wouldn't want to do that. I'm sure she's taking a lot of heat because of it. But of course the strategists in the Premier's office have the master plan and it goes a certain way regardless of what the minister thinks and regardless of what you people think at this particular committee, unfortunately. I think you would want to make

some suggestions for some changes based on the feedback you get from your own constituents and from your own areas.

The other thing I would note is that we have become the most undemocratic Legislature in all of Canada. You can shake your head. The fact is, that is absolutely true. This time allocation motion and the issues that are included in it demonstrate absolutely conclusively that we are now the most undemocratic Legislature in all of Canada. I feel ashamed, frankly, to be part of it and to see this happening. The slim, tiny veneer of democracy that is left is almost a joke.

The minister's statement, by the way, after the time allocation motion was introduced changed the ball game significantly, as surely you would agree. She dealt with major issues that were identified by members of the opposition in question period, in their speeches, identified by the OFL in their particular document, and she said she addressed most of those.

On the surface, it would appear she did address most of those. To what degree in every instance, we don't know. So we wonder why the minister was not prepared to table the amendments when we asked in the first instance. "Well, we're working on it. We need more time." For God's sake, if the government and the ministry and the caucus resources that you have need more time — days, I would suppose — to deal with amendments where you already know what you want to do and you already know what the minister has said, how can you in any good and ethical conscience truly acknowledge that this can be done from one sessional day to the next, for one hour? It makes a mockery of this whole process, and you know it.

We've checked with the clerk's office and we are assured there will be some people available during the weekend, but we're not assured that we'll have the extent of support to help place things in legal form that is required, as you well know. I'm not a lawyer; most members aren't. Some of you may be. We need help. We may want to address based on what we've heard, based on the representations. So cynicism will raise its head again.

We keep turning off people all the time. When I say to people, "If you're concerned about this, why don't you put your name forward and we'll see if we can get you on the witness list so that you can speak directly to the committee?" half the time people say: "What's the point? The government's going to do what it wants anyway." It looks that way when you see, from all the representations we will have, which probably will be in the neighbourhood of 60, 70 or 80, depending on the time that is given to each witness, that the government doesn't need any time. What it's saying to the people who are to appear here is, "What you have to say won't really matter," because you won't have time to make the amendments that need to go forward.

Then I ask, why would that happen in the first place? If the announcement was so good — and it appeared to be good. I know it caught a lot of people off guard; it looked like a 180-degree turn. But if the announcement was so good, then why not place the amendments so that people

who come to make representations will know what they're dealing with?

I suspect the reason they won't happen until the Monday morning is because some of them are not so good. I believe one of the areas that will be touched upon and will not come through very well will be the transfer of the responsibilities and functions from the transition committee to the labour relations board. It might go something like this: The labour relations board will now have the responsibility to handle what the commission did, but they will have to abide by the terms of reference that were given for the transition committee. And because the labour relations board is of course very busy, as the government says — it should be; it lost 40% of its resources — there may be a subunit that will be attached to the labour relations board that will be responsible for managing this particular process.

It won't really be a real transfer to the labour board with them functioning on the basis on which they function in resolving disputes now. It will be with the same criteria, ability to pay and whatever, all those kinds of things that any independent arbitrator I know of would not want to be part of. It will just be transferring a small group of people who I suppose are earmarked to serve on the transition board who will move over and perform the same function, but under the so-called guise of the labour relations board. I think that's one of the areas that the government will fool around with because it sounds good.

The minister said today — I feel sorry for her in many ways because I know she doesn't want to do this on a personal basis. She said, "We will be sharing the details." She didn't say, "We will be sharing the amendments"; she said, "We will be sharing the details." My understanding, from what we've gleaned, is that someone will be giving a verbal briefing. It will not be the amendments.

1630

I ask the members, what are you afraid of? You're obviously afraid of something. The bill is drafted in legalese form with sections and parts to it, and that's what people come before this particular committee to respond to. I imagine, if we do get to hearings, that this will happen. People will say this time and time again and we will have contributed to the cynicism that is out there.

Even with the restriction on time in Bill 99, we at least had five days of clause-by-clause and we had four days, which we thought at the time was unfair — we thought four days was unfair. We had 57 amendments. It took a hell of a lot of time to work those out and it took some weekend work as well to do that. We thought that was unfair. But this is a real insult not only to the opposition members but to the witnesses who are coming before us because there is very little opportunity of responding in any kind of committed way.

Remember, everybody is elected. Even a minister has to be elected, as you well know. If you think this is a democratic process that you're proud of — I'm sure you're not, but you have to follow through and do what you're told.

What kind of advertising are you going to be able to do? Surely you can't put advertising in today for tomorrow; it's too late. Then you put it in tomorrow and we start hearings, so it makes a mockery of notification.

Where will the advertising be? Is it just Toronto? Will it be throughout the province? This is the province of Ontario, not the province of Toronto. It affects all the people of Ontario, and surely they should have a chance to know what's going on and either send in briefs or find some way of being able to come here. Will we have resources for people to be able to travel because it's only in one particular place?

The time allocation: When we look at the recommendations, which I believe are fair, the government will say, "No, it won't be." We're talking about a little bit more time, another week or so, maybe two. What does that take away and how do you weigh that amount of time with the loss of a sense of respect for this place, let alone for the government? We are injuring the Legislature, which is different from the government, and I think it's important for all elected members to know that we've hurt the Legislature in its capacity to operate in any kind of democratic fashion.

So the first one deals with the aspect of travel and the second one deals with the House leader moving an amendment to time allocation that would allow for the extensive hearings we're talking about, and then the time between the final witness and the ability to prepare adequately for making and drafting amendments. Then we call upon the minister to make public immediately the actual amendments, which are crucial.

The minister will, as she said today — a little more specific than she was Thursday — share details. But that won't be adequate unless we've got the actual amendments before us. If we don't have the amendments before us, the only thing we can conclude is that they don't really meet with the spirit of the actual announcement, that they in fact are ways in which they can somehow weasel out of the statements that are made but obliquely or indirectly may relate to the statements that the minister made.

I support this amendment, and my caucus does as well, to the time allocation motion. And by the way, I would like to hear the arguments from the members on the other side as to how they can face somebody, look him in the eye and say, "We believe in a truly democratic Legislature, and our behaviour suits that and fits that." I'd like to hear the members on the other side talk to the issue.

I suspect they don't want to talk to the time allocation motion, and the reason they don't is because they don't have an adequate answer. It's embarrassing for them that they have to sit there and go through this when other people are making the decisions. I'm sure it doesn't make them feel very good. But I would like to hear their arguments. I would like to hear if they are proud of what has been proposed and if they feel in their hearts they can move ahead with this kind of thing when it flies in the face of democracy and it flies in the face of the witnesses and people we represent who want to make representations and aren't sure what the heck they're responding to

because of the minister's intervention after this time allocation motion was put forward.

The Chair: Further discussion on the subcommittee report? Seeing none, I will put the question.

Mr Patten: Madam Chair, I believe that under section 127(a), every member can request a 20-minute wait before the vote.

The Chair: I believe that's correct. All right. We'll stand recessed for 20 minutes, and we will reconvene at just a few minutes before 5 o'clock.

The committee recessed from 1636 to 1653.

The Chair: Colleagues, I was just about to put the question and a recess was called, so I will now put the question:

Ms Martel: Recorded vote, Madam Chair.

Ayes

Martel, Patten.

Nays

Chudleigh, Froese, Hastings, Maves, Ouellette.

The Chair: The report is lost.

COMMITTEE BUSINESS

Mr Bart Maves (Niagara Falls): I have a motion I'd like to move.

The Chair: Would you like to read that out, please.

Mr Maves: I would and I have copies you may want to distribute.

I move that:

1(a) The resources development committee shall meet in Room 151, Legislative Building, on the first four days allocated for the committee's consideration of Bill 136 in the order of the House dated September 17, 1997; and

(b) The committee shall meet in an available committee room in the Legislative Building for clause-by-clause consideration of the bill on September 29, 1997, and September 30, 1997.

2(a) The committee shall hear witnesses in person and by teleconferencing; and

(b) The committee shall connect by teleconferencing to the following locations if teleconferencing facilities exist and are operational, and if there is sufficient demand from witnesses: Chatham; Kirkland Lake; Ottawa; Owen Sound; and other locations to be determined by the Chair of the committee.

3(a) Invitations shall be issued to the following organizations: Association of Municipalities of Ontario; Ontario Hospital Association; Ontario Municipal Human Resources Association; Ontario Separate School Trustees' Association; Ontario Public School Boards' Association; Association française des conseils scolaires de l'Ontario; Association franco-ontarienne des conseils d'écoles catholiques; Human Resources Professionals Association of Ontario; Canadian Federation of Independent Business; Ontario Chamber of Commerce; Board of Trade of

Metropolitan Toronto; Toronto Transition Team; Ontario Taxpayers Federation; Ontario Federation of Labour; Amalgamated Transit Union; Canadian Union of Public Employees; Ontario Public Service Employees Union; Ontario Council of Hospital Unions; Ontario Nurses Association; Ontario Professional Fire Fighters Association; Provincial Federation of Ontario Fire Fighters; Police Association of Ontario; Ontario Secondary School Teachers' Federation; Service Employees International Union; Equal Pay Coalition;

(b) Other witnesses shall be selected by the Chair of the committee from lists provided by the three caucuses and from the committee clerk's list of individuals and groups who have asked to make presentations.

4. The deadline to file written submissions with the clerk of the committee shall be 5 pm on Friday, September 26, 1997.

5(a) The agenda of the committee shall include the following: 30-minute opening remarks by the Minister of Labour, or the parliamentary assistant to the Minister of Labour, on September 23, 1997, followed by 15-minute remarks by each of the opposition parties on September 23, 1997, and a 60-minute technical briefing by officials of the Ministry of Labour on September 23, 1997;

(b) Presentations by witnesses shall be limited to 30 minutes per group or 20 minutes per individual;

(c) Teleconferencing with witnesses at the locations listed in clause 2(b) of this motion shall, if possible, be scheduled on Thursday, September 25, 1997;

(d) Within these parameters, final scheduling authority shall be delegated to the Chair of the committee;

6. A research officer shall be assigned to the committee:

(a) to provide background information requested by members of the committee during the committee's consideration of the bill; and

(b) to write a report summarizing the oral presentations and written submissions with deadlines as follows: The summary of presentations/submissions received on or before Thursday, September 25, 1997, shall be filed with the clerk of the committee by 5 pm on Friday, September 26, 1997, and the summary of presentations/submissions received on Friday, September 26, 1997, shall be filed with the clerk of the committee by 9 am on Monday, September 29, 1997.

This is one motion, Chair.

The Chair: Thank you very much. Did you wish to comment?

Mr Maves: In order that we can get on with the public hearings, I would hope that time is not frivolously exhausted by repetitive debate. I just wanted to point out that teleconferencing has been done and has proven to be cost-effective. The standing committee on the Legislative Assembly used teleconferencing investigating the referenda, I believe, and then another issue from across Canada and I believe from someplace in the United States too. I just want to put that on the record, Chair.

Mr Patten: I'd like to ask a question. Have you checked out that this can be done within this time frame

for teleconferencing, Bart? In here it says "if possible." Can the technicians do it? They informed us at the briefing —

Mr Maves: My understanding is it can, yes.

Mr Patten: Can we get clarification of that from legislative electronics or communications or whatever it is? Is there any in which we can get that? My impression is it's too short a notice.

The Chair: Perhaps the clerk would like to respond.

Clerk Pro Tem (Mr Douglas Arnott): My understanding is it could be possible.

Mr Patten: It could be.

Ms Martel: How many sites?

Mr Patten: The sites that are mentioned here, "Chatham; Kirkland Lake; Ottawa; Owen Sound; other locations to be determined...." Could I have a clarification on "other locations?" How many other locations do we have the capacity for? When we had the briefing the other day — I'm sorry you all weren't here — it was my understanding that they talked about a couple of places because they didn't have the people power to set this up. But they also needed to have someone, a staff person at the other end, even though it may or may not be in a government facility; it might indeed be in a private business or any location that might have the best electronic communication capacity.

1700

That would require a staff person from this Legislature to go to that particular site to set up the arrangements to prompt the witnesses, to introduce them to the technology and how it's used and all those kinds of things. My understanding is they said they did not have that much of a capacity, as even the short list here demonstrates and illustrates, let alone other locations to be determined by the Chair of the committee.

The Chair: It's my understanding in consultation with the clerk that if there are facilities in place and the clerk's office is so directed to do this, this can be done.

Mr Patten: If this cannot be done, because this is your concession, are you then prepared to amend this motion or qualify it saying that in a case where this is not able to be done satisfactorily through electronic communications, we would move to have on-site hearings to replace teleconferencing, because if we don't have the teleconferencing all you've got is a site here in Toronto, and it nullifies everything else?

Mr Maves: I would only say that the motion allows for other locations to be determined by the Chair of the committee. If there's some problem with these cities, then the Chair can make sure we're doing the teleconferencing from cities it can be done from.

Mr Patten: You're talking about doing this by Thursday. How do we get names based on the other allocations to be determined by the Chair? Does the Chair at the moment have any ideas of any other areas?

The Chair: I know the staff of the Legislative Assembly have been working to find out all the places where teleconferencing could be possible, and I understand there

is a list of a number of places where this could be undertaken.

Mr Patten: Okay. I just had a note from my mathematician staff person who just worked out the number of hours. If we had a representative from each one of these associations primarily, the long list under 3(a), this would leave less than 13 hours for any individuals who may choose to make representation before the committee. Are we to have on the agenda, by the way, the discussion of notification and advertising? Is that on the agenda today?

The Chair: The only item on the agenda I'm aware of was the report of the subcommittee.

Mr Patten: Because if it is, I'll stand down my questions related to that, but if it isn't, I'll try and address them as we discuss this. So if you want to keep it as a separate item, I don't mind doing that in terms of notifying people.

The Chair: This is something you spoke to under report of the subcommittee, so in some essence it has been discussed already. It is not in this motion, so you could speak to it but of course we would prefer that you always speak to the motion as such.

Mr Patten: It's obviously related because it's the notification for people: when the hearings are, when they're available. If they are limited to, let's say, telecommunications, those sites have yet to be determined other than a city. We're talking about four days, three days from now. How can we notify people and have them prepare their particular views and thoughts? It's not very realistic. It just won't fly. That's why I say that unless there's a special plan for advertising and notifying people, especially in some of these other regions and areas where people can come from other small villages or towns, from around Chatham or likewise from the north, or from Ottawa — people might want to come from Cornwall, Smith Falls, Pembroke or Chalk River or whatever.

I just think it's vital. To endorse using this technology without understanding how people would be notified and understand how it's going to all work, I fail to see how it would all work. That's why I asked the question. It obviously relates to this because if nobody hears about it and knows about it, then you'll set up a technology and there'll be nobody there other than maybe some of the government side supporters. I don't know, is there a plan in place already?

The Chair: I think it would be appropriate to indicate to you that following the subcommittee report on Thursday, as Chair of your committee, I took the initiative to ask the clerk of the committee to indicate to any of the Ontario associations that had already contacted the clerk's office that there was a possibility they might be called on very short notice to speak to a 20- to 40-minute time period. To my knowledge, that's as much as has occurred.

Mr Patten: As many of you will know, there are many communities where they have a weekly newspaper and the deadline has probably passed for this week. Usually it comes out in the middle of the week. So I don't know how you do that. Are you planning to use radio?

The Chair: That would be at the will of the committee. The clerk has indicated that a number of people have

indicated an interest in speaking before the committee, as naturally we would expect.

Mr Patten: So the clerk has a plan? Do you have a plan, Doug?, I don't want to put you on the spot, but do you have a plan that you think will address this issue?

Ms Martel: It's not up to Doug to have a plan, it's up to the committee.

Mr Patten: I know.

The Chair: You're speaking in terms of individual presenters at this point, then?

Mr Patten: Just so the public knows that there are hearings and individuals who would like to make representation will know they have the option. My fear is they will not have the option. If you use newspapers, you've already cut out probably most of the newspapers in the province because the deadline for their weekly is past. You'd be forced to use television or radio or something of that nature to let people know. Otherwise it's just not a feasible plan. That's why I asked if there was a plan and how, given the short notice, that would be able to be communicated. Obviously in Toronto you can do it in perhaps, I don't know, can you do it tomorrow? Can you have things ready for tomorrow when the hearings start in 48 hours?

The Chair: From the Chair's perspective we have not undertaken anything of that sort because it would be assumed that would be done at the will of the committee.

Mr Patten: The only thing that worries me is when I see "if possible"; then my confidence wavers somewhat, because otherwise it wouldn't be in there. It would be, "We shall move on installing" such and such. So when I see "if possible" it seems to me the government can come back and say, "Well, it wasn't possible," and that's the end of all of that and we would cut out most of the population other than those who live in Toronto or the surrounding areas.

If I may, in section 6 it says, "A research officer shall be assigned to the committee," which is standard practice, "to provide background information requested by members," which goes along with this, "...and to write a report summarizing the oral presentations and written submissions," which is going to be a lot of work. Whoever is the researcher, I think he can look forward to a busy, busy weekend with this schedule. When would we expect to have that summation?

The Chair: If I can respond, the summary is indicated according to the motion here before us, for Thursday, September 25 and September 26.

Mr Patten: But we will not have completed the hearings. The normal practice, it seems to me, and I think all members know this, is that with some fair amount of time, normally and on a regular basis, we wait until the hearings are completed and the researcher takes a look at frequency of comments that are similar — the patterns, trends, exceptions, who said what, who made the same point — which of course adds to the weighting of amendments that members of the committee can then take to draft their own amendments. One problem I see with this is that it preempts part of the hearings. It would not allow the members

of the committee to receive information that would acknowledge and respect all the presenters during the hearing time. Would that not be the case?

1710

The Chair: Mr Maves, do you wish to respond to that concern?

Mr Maves: No.

The Chair: From the research staff, Mr McLellan.

Mr Ray McLellan: We had undertaken and made preparations, prior to receiving this document, to have an interim summary for Friday. In other words, those sections that would be included would be up to Thursday at noon, which would allow us Thursday afternoon and Friday morning to get the document to the clerk's office for distribution. But we can certainly live with the timetable and will live with the timetable as set out in this document.

Mr Patten: I know you will do everything you can to do your job, and I respect your professionalism on that, but how can you provide a complete review? It's like saying that those people who make representations on Friday somehow don't matter as much as people who made their presentations on Wednesday.

Mr McLellan: The Friday submissions would be summarized over the weekend and then delivered to the clerk's office first thing on Monday morning. We will have two people on this committee, myself and Avrum Fenson, as well as another person at the office to review the documents as they go through. We certainly will get the documents out on time, the two documents.

Mr Patten: I ask Mr Maves, the parliamentary assistant, whether you believe it's important to at least honour the process and respect that some members should be included in the summation report by our researcher; that theoretically, anyway, all witnesses come forward with the same weight and the same respect and the same courtesy? Do you agree with that?

Mr Maves: Yes.

Mr Patten: Then how come we wouldn't be in a position to receive a full report on all the presenters until — who knows when — maybe on the weekend at some point, or Monday morning?

Mr Maves: You'll receive that on Monday, September 29, 1997, by 9 am, as the motion reads.

Mr Patten: Where does it say that?

Mr Maves: The last sentence of the last paragraph.

Mr Patten: If they're filed on Monday and if I want to take a look at the complete record of hearings, regardless of what else I do, I have one hour to try and get that at 9 o'clock, run back to my office, read it and redraft things, if there are things in there of value and of import that perhaps I had missed or that weren't in the first set of summations. Do you not agree that that is a bit much? I don't care how smart you are or how quick you are; that does not provide you with the time to draft anything, let alone check with legal counsel on a particular amendment that may result from a presentation that had been made on Friday afternoon. Would you not agree with that, Mr Maves?

Mr Maves: I have faith in your abilities, after you've heard everything on Friday, to cull it yourself and come up with your amendments.

Mr Patten: I have respect for the researcher too. I think most of the committee would want to do that.

The Chair: Ms Martel was up next for further comment.

Ms Martel: I want to deal first with the teleconferencing. Surely, I say to the parliamentary assistant, you've got to be a little bit embarrassed by putting forward a motion that says what it does about teleconferencing. For goodness' sake, take a look at what has been written here for you to read in this committee today and think about it.

It says in clause 2(b), "The committee shall connect by teleconferencing to the following locations if teleconferencing facilities exist and are operational, and if there is sufficient demand from witnesses," and then you put out a couple of locations. Then I refer you to page 2 of the motion you have been told to come here and read. Clause 5(c) says, "Teleconferencing with witnesses at the locations listed in clause 2(b) of this motion shall, if possible, be scheduled on Thursday, September 25."

You are insulting people with this kind of motion. How can you possibly not be embarrassed about coming in here today and being told to read this garbage to this committee? You want this committee to buy a pig in a poke, and that's not on. You came in here today and gave some half-baked example about how one committee has used teleconferencing to deal with, you thought, the referendum issue. You provide zero details with respect to how well that process worked, how much lead time there was for that committee to put that in place, how many communities that committee might have heard from, what kind of technical staff and how many were required to make it happen, or how much it cost. Then you talked about some example in the US and it was the same thing: You gave no details, no information whatsoever on how well it worked, and if it worked.

We've got two totally opposing views in the committee right now, from technical people, with respect to whether this can even work, never mind by this Thursday. The critic for the Liberal Party says the subcommittee was already advised that the technical staff around this place would need some two weeks' preparation to put this together in a way that would facilitate the public to participate, and second, that you need staff on site to facilitate the process. How do you think we're possibly going to have legislative staff around this province by Thursday trying to facilitate some public input through teleconferencing?

You've got a view that was given to us by the clerk of this committee, who says it can be done, but again we've got no information whatsoever presented to anyone about how the first experience with teleconferencing under this government already worked. You expect us to buy this? You expect the public to believe you're at all serious about allowing people outside of Toronto to have input? This is ridiculous. You should be embarrassed that you have to be in here today trying to support a minister who

has broken her word with respect to public hearing, by offering up some vague, half-baked teleconference idea that you can't even give a commitment to the committee is going to work, and certainly not by Thursday. How stupid do you think people are? How much do you want to insult the public?

This is ridiculous. The committee is sitting here today. We are told by the clerk that somewhere in this building a group of staff is putting together a list of committees that have teleconferencing capabilities and sites available, and that's not even tabled with this committee today. You can't even tell us if the four places you put on here are even operational. Your own words, the words you were told to get in here and read, say, "If teleconferencing facilities exist and are operational," we'll have them in Chatham, Kirkland Lake, Ottawa, Owen Sound and some other places that the clerk will decide.

This is stupid. I can't believe that you can seriously want to come here today and try to support a notion of teleconferencing as some kind of good substitute for province-wide public hearings. Don't you feel dumb about having to be in here today and vote for something as stupid as this? For goodness' sake, your own PA in the notes he reads says, "If it'll work; if it's operational." You don't even know that, and you want to try and get something off the ground by Thursday. This is an insult to the people who were promised by your minister on June 4 that there would be province-wide public hearings. That's what she told this assembly. That's what she told the media. That's what she told the public.

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It's a bloody disgrace that we're in here today and you're trying to ram down our throats some kind of half-baked idea on teleconferencing which is supposed to act as a substitute for public hearings. You can't even give one assurance, one guarantee, one iota of certainty to this committee that this stupid scheme will work by Thursday. I'm not prepared to support something as ridiculous as that. It's a slap in the face to people right around this province, who were promised by your minister that they could participate and who are now being told maybe they can participate if there's a teleconferencing facility that works.

Let me add to that the notification process: You're trying to have us, the rest of this committee, buy into this idea, but there's not even going to be any notification to any of these people about these hearings. The government motion moved today talks only about inviting select groups, provincial representatives of provincial bodies from Toronto, to come to these hearings which are supposed to start tomorrow. You have said nothing about how you're going to deal with people in those communities who might want to appear as witnesses, who might be able to participate if there's a teleconferencing facility and if it can be arranged by Thursday.

Aren't you a little bit embarrassed about being in this position? Don't you feel a little silly about having to come in here today and defend your minister and your cabinet with such a stupid proposal? For goodness' sake, in your

own motion you're not even talking about how you might notify people in communities about the possibility of teleconferencing. How are they supposed to know they might even ask for this or apply? As if by magic?

This is supposed to be a public process. But the way it's going, by your first turning down the motion of the subcommittee and coming up with something as ridiculous as this, clearly demonstrates to all of us that you have no desire whatsoever to hear from the public about this bill — none. That is very clear today by two things you have done: (a) by the fact that you voted down the motion that came from the subcommittee, and (b) by the very fact that you would put something together as ridiculous as this and come in here to try and ram this down our throats.

You are not interested in hearing from the public. First your minister wasn't when she broke her commitment this week and the government moved in with a time allocation motion to ram this process through this week and the beginning of next week. Now you come in with a scheme that says: "The best we're going to do, in terms of notifying people, is to notify some of the provincial heads of organizations here in Toronto, and too bad for everyone else out there who wants to participate. And by the way, we'll offer them some crazy notion of teleconferencing, but as a government we can't even commit that it will work, because we don't even know."

That's nuts. That's a lousy process that just reinforces the notion that the opposition has and that the public is starting to have — and that notion is growing — that you are afraid to be in their communities, that you don't want to hear from the public in people's communities. You don't really want to hear from them around teleconferencing, because you can't even guarantee to the members of this committee here today that it's going to work. You don't want to listen to the important concerns people want to raise around this bill.

Then you've got the minister coming in to give us some of her remarks: 30-minute opening remarks by the Minister of Labour or the PA on September 23. Let me make this point again. If you really want to believe that the minister is changing the bill in the way she has — and I don't, because she's already broken her word on the public hearings, but if you want to believe that — the best we're going to get from the minister under this motion is some sharing of the details, I assume, of the presentation she made in the House, some sharing of information and then some more time being taken up by a technical briefing from her staff.

I know that those amendments, if they are not already written, are close to being written. She could not have gone to P and P and then got agreement in cabinet on Wednesday for significant changes to this bill without having some drafting of those sections she wanted to change in place. If they're not written by now, they're well on their way to being written right now. It is not good enough for this committee to say that the minister can come in here and give us a repeat performance of what we got on Thursday, because frankly, a whole lot of people out there don't believe, on face value, just hearing her

words, that what she said may actually be in the legislation.

We already got tricked by the minister on Bill 99 when one of the amendments that we didn't see until after the public hearings were over talked about retroactivity and will wipe out any number of claims and appeals by thousands and thousands of workers. People don't want to be in that position again, where they're being asked to trust a minister who already broke her word and then they're being asked to trust her again that what she says in a discourse to this committee is what is actually going to be in black and white in the amendments. Why should people trust her? Why should people trust that what she has said in the House on Thursday will be reflected in black and white in the amendments that will come to this committee after the public hearings are over?

This committee should be demanding, as we did in the subcommittee report, that the minister come and table the amendments before this committee if she wants to show any respect to us and if she wants to demonstrate any respect to the people who are coming here to make presentations. That's what should be done. It's just not good enough for the government members to come in here with this motion now and say, "She will come and make a presentation," but will not have the privilege of seeing in black and white the actual changes she wants to make until the public hearings process is over. That's not on.

Fourth, with respect to the information that the research officer is going to prepare, I have great faith in their abilities and capacity, but what I as an opposition member resent is the scenario you have set up for the rest of us on this side. It is grossly unfair that we would be expected to go through public hearings and listen to people — we intend to do that, even if you don't — and between Friday night at 5 o'clock and 10 o'clock on Monday morning, we're supposed to be able to get all the amendments ready and hope that those amendments somehow might reflect or coincide with the changes the minister will be making, which we won't see till 10 o'clock.

But worse than that is your insult to us with respect to the work you've asked the research officer to do. That work will be tabled at 9 o'clock Monday morning, and by 10 o'clock on Monday morning all the final amendments for this bill have to be placed before this committee: a single hour to look at the summary for what happened on the final day of hearings and anything else with respect to written submissions that come in in that time. Don't you feel a little embarrassed about having to do this today, folks? Don't you feel a bit embarrassed about having to come in here and ram this down our throats?

Even the group of you over there who want this done as quickly as possible must understand how undemocratic and how ridiculous it is for the opposition to be expected to meet the time lines you have set out. I don't care if none of you wants to read about what people have come to say. We do. We are interested, and we would prefer to have the time to base some of our amendments on what we hear. Unlike the minister, who probably already has her amendments drafted, we don't. We can't assume that what

she said was right or truthful, so it's pretty difficult to make amendments around that.

It's a slap in the face to us and it's appalling as a process that you would put in the motion we are dealing with today that by 9 o'clock we're going to get the rest of the work from the research committee and at 10 o'clock all the final amendments will have to be tabled, an hour later. It reinforces the notion again that you don't want to hear what's going on, that you're so interested in ramming this through that you will forget about the important details, and we will end up with a bill just like Bill 26 that will be totally flawed and will be bad for everyone at the end of the day.

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I say to this committee that what we have here, both in terms of you voting down the subcommittee resolution that was before us and the garbage you've put before us today, just reinforces the notion you've all been told to get in here today, get this thing over with, not answer any questions, not give any explanation of why you're operating in such an undemocratic way, and just to get through this bloody hearings process as fast as you can, as quickly as you can, without listening to a single word anyone has to say. That's what your motion is all about, and surely one or two of you over there must be embarrassed about doing what you're doing here today.

Mr John Hastings (Etobicoke-Rexdale): On a point of order, Madam Chair: I would like to know whether it's appropriate and parliamentary that you can use the following terms: "garbage," "not true" and "bloody" — those three. I'd like to know whether those words are now acceptable in parliamentary language. If they can be, then I suppose we can move to the next level and use other gutter language or near-gutter language.

The Chair: Ms Martel, did you wish to respond? If you feel you have said anything unparliamentary, you can withdraw.

Ms Martel: No, Madam Chair, I don't think I've said anything unparliamentary at all, but this process sure as hell is unparliamentary.

The Chair: Ms Martel, the last comment was indeed profane. I would like you to withdraw the last comment, please. It was indeed unparliamentary.

Interjection.

The Chair: The one she just said at the very end of that sentence. I would like you to withdraw that.

Mr Bud Wildman (Algoma): The member said "sure as hell," and that's been used more than once in this House.

The Chair: It is profane and it is inappropriate, in my opinion. I have commented on that before in this particular committee.

Ms Martel: Madam Chair, if it offends you, then I will withdraw it, but it certainly has been used —

The Chair: Thank you. I would just comment to all members of the committee that the public doesn't expect any of us to speak in a profane or semi-profane manner at any time, whether it be in a committee or in the House.

Ms Martel: The public doesn't expect to be trampled on like the way they are today either, Madam Chair.

The Chair: Mr Duncan is up next.

Mr Dwight Duncan (Windsor-Walkerville): I'm glad to have the opportunity to address this particular motion. I think it's an important motion that is very fundamental to what the government's about. I was required to be at home last week because of a medical situation in my family and I was positively astounded when I heard the government backtracking on Bill 136 and backtracking on some of the things it's said about teachers and their right to strike.

I want to address this specific motion because I know that's the motion before us and that the rules of our House and indeed the rules of committee require us to speak specifically to the motion that's on the table, be it a procedural motion such as this or a motion related to a bill or any other type of thing. I'll start and just try to go by them one by one.

I want to preface my remarks. I share some of the anger, the frustration that the member from Sudbury has expressed very well and that my colleague from Ottawa Centre has expressed very well. What we are talking about is fundamental to parliamentary process, a process that's been developed over 400 or 500 years, whereby we allow people an opportunity —

On a point of order, Madam Chair: There have been staff people back and forth having conferences over there. I find it very distracting.

The Chair: It's not a point of order. Please continue.

Mr Duncan: I think it speaks well that the members of the government have to take their orders from unelected staff members. You sit there, you do what you're told. That's what this is all about. If we look at this particular motion, a motion that effectively restricts public access and debate to legislators and the Legislature, a motion that effectively gives more power back to the unelected staff members who the government members take their marching orders from, I think when we consider it in that context, my point of order has real significance.

We see the spectacle of members from areas of this province as diverse as Niagara Falls, St Catharines and Oshawa, saying, "We don't want to hear from the people in our community," saying, "We would rather listen to the Premier's henchmen or henchpersons," the people who are unelected. "We don't want the people of Oshawa to have access. We don't want the people from Niagara Falls to have access. We don't want the people from St Catharines-Brock to have access. We don't want the people from Durham or Guelph to have access. It's important to us that we shoot down hundreds of years of parliamentary tradition in favour of a new technology that's relatively untested."

Let's talk about teleconferencing and what it's about and how it impacts on our parliamentary traditions and our parliamentary history. Many educational institutions have started into the teleconferencing of classes in education. Some have been successful, some have been less successful. They've been successful when they try to reach out to

communities that are far-flung to give access to people who wouldn't otherwise have it. When that type of technology is looked at in that light, it can, I would submit, be very beneficial.

Technology that can liberate can also oppress. What the government is doing here is they're trying to oppress, using the technology.

There's a great tradition in our law and in our parliamentary system that people face one another in person when there are public hearings. Every municipality in this province tonight at approximately 7 o'clock will convene their municipal meetings, their council meetings, and people will be able to come to the table, just as they can here, to make presentations.

Naturally we have evolved a system of regulations and laws and procedure to govern that, because there is limited time on the public calendar, there are many priorities that touch on every aspect of our lives, so naturally we have to evolve those kinds of regulations, rules, procedures to ensure fairness and to ensure that as many people as possible can be heard.

I would submit that clauses 1(a) and 1(b) of this resolution are designed to keep people from being heard. They're designed for allowing the government not to be held accountable by the people who elect it.

I thought I'd seen it all in some committee hearings. I've heard the assurances that documents will be ready in a timely fashion. We just did the Tenant Protection Act, the act that gets rid of rent control in Ontario. I sat on that committee. We didn't get our summaries for half the hearings until well into clause-by-clause. Why? There are physical limitations to what people can do. I will tell you that what you see in a teleconferencing scenario doesn't give you the feel for everything you need to see. It doesn't allow a community to come out and be heard. It doesn't allow you to see the anger. It doesn't allow you to see, frankly, the support that some of your supporters may have.

When we start messing around — I don't even like to use that term "messing around" because this isn't messing around; this is fundamental to how we conduct our affairs. I don't believe for a minute that government members opposite feel comfortable with that. I can't believe that in your heart of hearts you would acquiesce to this if you weren't having the kind of pressure put on that we see going on now: staff over telling the parliamentary assistant what to do, briefings, all kinds of things. I don't think that in your heart of hearts you believe this is the right approach. If you do, shame on you, because what this resolution does is restrict access.

We need to talk about and debate how new technologies can be brought into use in the Legislature and the various halls of Parliament throughout the Commonwealth. I believe the federal government in Canada was the first legislative chamber to introduce television to the chamber. I believe that happened in 1977 or 1978. That was a remarkable experiment and it was achieved after much negotiation and much discussion among all members.

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As I said earlier, new technology can liberate us and it can also oppress us. We have to be careful as we introduce new procedures and processes into our parliamentary system, into our parliamentary language, into our parliamentary traditions, that we do so in a way that is fair and that enhances public debate and public accountability. I think there is a place, under the right circumstances, with proper discussion and full debate with respect to the potential consequences, for teleconferencing. I think it has to be carefully thought out.

For instance, do we know if satellite time is available? Satellite time is both very expensive and limited, very limited and regulated, regulated by a number of different jurisdictions. We have to determine: Is it cost effective if we're buying random amounts of satellite time? Which satellites do we use? Do we use Canadian satellites? Do we use foreign satellites? There are issues of this nature. That technology can be liberating or it can be oppressing.

When I look at clause 1(a), "The resources development committee shall meet in Room 151, Legislative Building, on the first four days allocated for the committee's consideration of Bill 136 in the order of the House dated September 17, 1997," I don't think anybody in the opposition contemplated we would be faced with this kind of scenario where we have a duly elected government with a majority that not only restricts the amount of time available, but restricts the availability or access of the committee to its citizenry.

I admit, acknowledge, that clearly everyone who wants to be heard on any given issue can. We have rules and procedures to allocate time in a fair fashion. As we contemplate the broad context of this, it has to be done in the context of how we change our parliamentary traditions. The Ontario Legislature, I believe, followed after the federal government in terms of introducing television. Members opposite and members of the government know full well that it was after much debate, much discussion. It was so topical and so controversial that in fact our standing orders stipulate the angle of television cameras, what shall be covered on television, how it shall be covered on television.

We become concerned when a government that frankly has a history of bullying, of pushing, of jamming things through, starts talking about teleconferencing in the absence of any previous, agreed-to rules. We watch in utter amazement as the whiz kids come in and out of the committee to brief and to make sure the right message is going out. I know the government members, the back benchers, were as confused as we were about the events that happened last week. I know, because I think some of them are thoughtful, decent human beings, they would be concerned that their communities, communities like St. Catharines-Brock and Oshawa, will be excluded from any kind of effective participation in these hearings.

When we talk about section 2 of the motion, that's the operative section, that's the section that comes to the heart of the issue. It's not unlike the guillotine motions you bring forward in the House to stifle public debate. It's not

unlike your attempts in other legislation to restrict the court's ability to make comment or pass judgement on decisions that have been taken by this government over time.

We had a very telling court ruling with respect to pay equity not long ago which spoke to the nature of process and how we do things. It spoke again about a bill I remember very well, Bill 26, perhaps one of the most sweeping pieces of legislation this province has ever seen. Again, jammed down people's throats and we would not have had any public hearings had it not been for the actions of Alvin Curling and all the members of the opposition who just drew the line in the sand and said, "No more."

My colleague in the NDP Mr Christopherson and I remember full well Bill 7. Remember that binder of amendments that were brought into the House one day? Removing the substance of the issue, removing the problems your own minister will acknowledge have been created by the hastiness with which those amendments had been brought forward, removing the substantive concern, any civilized human being who believes in a parliamentary tradition and believes in the right of people to have a say on how their lives are governed, would say that what you did was simply unacceptable, unacceptable to our democratic tradition, our parliamentary traditions, unacceptable from the perspective of defining solid public policy.

It's really a shame, then, and I thought I'd seen it all. I thought: "You can't be any more anti-democratic than this. You can't be any more oppressive than this. You can't limit debate in the Legislature any more than this. You can't deny the opposition, and most importantly, you can't deny the public the right to participate any more than you've already done in a whole slew of things."

I must confess, like many in this province, I was left breathless last week thinking: "Wow, maybe they're starting to listen. Maybe they're getting the message." My political antennae just haven't been too sharp. I got it all wrong. When I see this, it tells me that what we heard last week was nothing more than another attempt, another scenario designed by the whiz kids and just kowtowed to by the elected members who haven't said anything, who sit there patiently while the paid staff come in and tell you what to say, another attempt to silence public debate.

That's truly regrettable. "The committee shall hear witnesses in person and by teleconferencing." I understand we're starting hearings tomorrow, without any amendments. Maybe you can debate a bill when the very substance of the bill has been changed based on what we've been told, although given the history and the track record of the government, perhaps what will emerge won't be as different as we thought or the government would want us to think.

We start tomorrow without amendments to the bill that go to the heart of the legislation and what it was about. And the government members: "Yes, you go right ahead, because you know what? When we get those amendments we'll see." But how do you debate them? How do you

have public hearings without the key amendments to the bill? One could argue from a parliamentary perspective that the substance of the bill has been changed such that the entire bill itself ought to be withdrawn. Heck, even your friends are mad at you. Your friends in the National Citizens' Coalition are mad at you. Boy, amazing, amazing.

Then we see this: "The committee shall hear witnesses in person and by teleconferencing," and, "The committee shall connect by teleconferencing to the following locations if teleconferencing facilities exist and are operational, and if there is sufficient demand from witnesses: Chatham; Kirkland Lake; Ottawa; Owen Sound; and other locations to be determined by the Chair of the committee."

The Premier had a much expanded list of places where we could do that. We ought to convene a committee in the Legislature to study teleconferencing and how we can access remote northern communities. But Windsor's not remote, Hamilton's not remote, Guelph's not remote, Oshawa's not remote, Sudbury's not remote. What are you afraid of?

You want a screen so you don't have to see the audience, and so they don't have to see you. Big Brother, nameless, faceless government coming at us from a television screen somewhere. So much for a public hearing room.

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This tradition all developed over time. There was a time when we didn't have these kinds of hearings. We evolved a system that allowed public input because in our tradition we've tried to get rid of the despotic tendencies that were there historically and open the process and make it accessible to people. What this government has done, I say with due respect — and we shouldn't be surprised — is that you're going back to a time when the people couldn't access.

Chatham's a great city. Chatham's a wonderful city. We should be going there in person. We should take Mr Carroll and take all of you and go to Chatham to let the people see you and let you look into their eyes as you hear them and let you get the feel for the community. Government members know full well that when you travel on committee, you meet with your own supporters. When you're in Windsor you meet with all five of our local Conservatives, every one of you. You get feedback, you get input. They tell you how your popularity is going down. They tell you when you meet with them that you've got to be strong, you've got to keep going. You don't even want to meet your own supporters in those communities.

Kirkland Lake: I think a northern isolated community ultimately, with a proper system of teleconferencing, can benefit. I've been to Kirkland Lake several times myself. Yes, there will be a place, and I would like to have the opportunity for our House leaders or our whips or the appropriate mechanisms to discuss how we can implement the new technology so that it is unbiased, is fair and serves to open the process, not close the process.

The nation's capital, Ottawa: Any time I've been to a committee hearing there, the room has been full. I always

like to get a feel for the room, for the people in that room. I like to see who your friends and supporters are. They always come out and get a chance to speak. Now you want to limit your friends' ability to speak.

The government members make light of this. They can pull you along and you can do what they tell you. Government members are always subjected to pressures from the cabinet and from the ruling class.

Mr Maves: On a point of order, Chair: I believe the standing orders state that each member should speak to a motion for 20 minutes. Mr Duncan has exhausted that 20 minutes. I know Mr Chudleigh has been on the list to speak. In the normal rotation that would occur. Since we've been passed over once, I think it would be an opportunity for Mr Chudleigh to make his statements.

The Chair: By my watch, Mr Duncan has one more minute to speak, and then you're quite right, I do have — actually, Mr Hoy is on the list to speak next.

Mr Maves: But on the point of order, Chair, wouldn't there normally be a rotation where each caucus has an opportunity —

Mr Duncan: No, she recognized him.

Mr Patten: What do the standing orders say?

The Chair: The standing orders don't indicate that we rotate by way of caucus. My understanding — the clerk will correct me, I'm sure, if I'm wrong — is that each individual person may speak no longer than 20 minutes, but it doesn't indicate per caucus or anything of that sort.

Mr Maves: Thank you, Chair.

The Chair: Mr Duncan, just briefly, to wrap up.

Mr Duncan: I want to use the remainder of my time to say that even the groups you've got here — AMO for instance. In AMO, there are big towns and little towns, big cities; there's north, there's south; there are different collective agreements in different places; many AMO reps don't have collective agreements in place.

You're not going to get input. Admit it. You're just restricting access to the Legislature and its procedures for the general public. The members from Oshawa and other places, you ought to stand up and say: "We support the government. We're proud of the government. But we're not going to let you trample on people. We're not going to let you trample on our citizens and our constituents."

I think it's a shame, Madam Chair, and I thank you for the opportunity to address this very important issue.

The Chair: Thank you. Mr Hoy, did you wish to add discussion to this motion that's on the floor?

Mr Maves: Madam Chair, can I seek unanimous consent for something, an opportunity to ask unanimous consent?

The Chair: You can ask for unanimous consent for something, yes.

Mr Maves: I would ask for unanimous consent for the committee to allow Mr Chudleigh, who in our view rightfully should be next in line to speak, to now speak.

The Chair: Do we have unanimous consent for that? No, I do not hear unanimous consent. Mr Hoy, please.

Mr Pat Hoy (Essex-Kent): I appreciate the opportunity to speak. There was unanimous consent asked in the

House for the government to place a supplementary today, and the opposition parties did agree to let the member put his supplementary from the government side. When the rotation went next to our party, we asked for unanimous consent to allow our member to put the supplementary, because the clock had wound down to about 57 seconds, and the government denied us, after our giving them unanimous consent to ask a supplementary. These are the kind of tactics the government will try from time to time.

With this motion, in reality we're talking about the failed subcommittee report that this government beat down. I recall that under Bill 99 there was a subcommittee agreement to enact certain things, to go about discussion of Bill 99. But then the government called in the resources development committee and wanted to squash the subcommittee recommendations on Bill 99. Notwithstanding that, our critic, Mr Patten, was deemed by a legislative committee to be elsewhere on one of those days that this committee was sitting, and not only that, the clerk of the committee — not today's clerk, but another — was also required to be away.

These are the types of things this government will do. Legislatively, Mr Patten and others were to be at another place. There was a subcommittee agreement to do certain things in respect to Bill 99. The government didn't like it and they called a meeting of this committee and just squashed all the good faith that was talked about prior on Bill 99, and they've done it again here today in respect to Bill 136 and the subcommittee report that the government put down this afternoon.

Here we're talking about a motion put forth by the government. Many of us have sat on committees or organizations prior to being elected, and many of those organizations will use Robert's rules and parliamentary procedure to go on with their day in order to achieve what they want to do: They debate whether they would spend money in certain allocated ways or whether they would commit to certain undertakings. They use these rules and the parliamentary procedure and they look towards the governments as a guide for that in their home communities.

This motion looks like it was put together by a complete novice. This is unbelievable. It is worse than a scavenger hunt. At least in a scavenger hunt we've got some direction, some notice, some plan, some idea of what on earth is happening. This is a complete sham, and it completes the total bullying tactics that this government has taken on since the election in 1995.

I can't believe this. I would be ashamed to put this up in my local community and say, "This is how we're going to progress, ladies and gentlemen." It's so full of holes. As I say, it's worse than a scavenger hunt. It's like saying: "We're going to go and pick apples tomorrow afternoon, ladies and gentlemen. Everybody get down here. We don't know where the field is, we don't know what kind of apples they are, we don't know whether we're going to put them in bags or boxes. Maybe we'll just look at them on television." I mean, this is just absolute nonsense. I don't

know where the parliamentary assistant is coming from with this kind of motion.

Some of the issues within it: We talk about teleconferencing in certain areas. We're told it would take two weeks to set this up, and now miraculously the government is saying it can do it by September 25, in three days. Who is kidding whom here? I think even a layperson would decide this couldn't be done in the time frame the government is suggesting, that this would happen by Thursday of this week, September 25, 1997.

Also, for the opposition, when we heard earlier that it would take two weeks to set this up, it makes us wonder whether the government commitment is to actually go into teleconferencing or not.

I have a question: What if Windsor wanted to be in on this? Are we going to say no? Will the government provide a full report on your attempts to comply with 2(a) and 2(b)?

The Chair: I'm sorry to interrupt you, Mr Hoy, but we're approaching the end of our committee time. We were meeting today for the purposes of organization —

Mr Hoy: Well, I'm speaking to organization.

The Chair: I understand that, and I apologize for interrupting you. However, we are at the end of our day and I'm cognizant of the fact that we haven't come to a decision on how we're going to proceed. I think it's appropriate that I ask if the committee is ready to call for a vote or to make a decision on how we proceed tomorrow.

Mr Hoy: No. I'm debating this motion at this time. I've got lots to say. I've got no —

Mr Patten: Time has run out, Madam Chair.

The Chair: So we do not have a decision to go to a vote by the committee?

Mr Maves: Do we need unanimous consent for that, Chair?

The Chair: I think we might, but I don't think it's about to occur. All right, colleagues, with that — I'm sorry to interrupt you, Mr Hoy, but we will stop at this point. We'll adjourn, and we'll reconvene tomorrow, following the standing orders, at 3:30. The standing committee stands adjourned.

The committee adjourned at 1801.

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Also taking part / Autres participants et participantes

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Official Report of Debates (Hansard)

Tuesday 23 September 1997

Journal des débats (Hansard)

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Tuesday 23 September 1997

Mardi 23 septembre 1997

The committee met at 1531 in committee room 1.

COMMITTEE BUSINESS

The Chair (Mrs Brenda Elliott): Good afternoon, everyone. I call to order the standing committee on resources development for organization purposes pertaining to Bill 136.

We had a motion on the floor yesterday put by Mr Maves and we were in the midst of discussion on this. Mr Hoy, you were part-way through your comments. Do you wish to continue?

Mr Pat Hoy (Essex-Kent): I do. Yesterday, we were presented with an impossible motion from the government. It's one that I mentioned appeared to have been written by a novice. What we're talking about in part here — I was speaking to teleconferencing. It's the government's intention to set up teleconferencing in various localities within the province. Here we are, just moments away from beginning debate on Bill 136, a bill that the minister has stated will be changed dramatically, and the committee has no amendments and the public has no amendments, only comments made through the press by the minister.

Teleconferencing is not the same as presentations brought here before us. We're not assured by the government that they can even set up teleconferencing in time for Thursday. Has the government advertised yet to the public that Bill 136 will be open for hearings? Have we done that yet?

The Chair: No, we have not, but judging by the number of applicants that have inquired with the clerk's office, several have indicated an interest.

Mr Hoy: So we have not. We haven't yet informed the public that they are allowed to come and speak on Bill 136. We're trying to put in place a teleconferencing mode in various locales, only a few throughout the province, not knowing whether they have the capability to get into teleconferencing.

If we do not have the capability to bring in teleconferencing by Thursday, after being told it would take two weeks to set up the capabilities, what will the government do on Thursday? Are you going to report to us that we cannot set up teleconferencing, and then quickly change and say to the public, "Come to Toronto"? How do we give proper notice to people in terms of what mode the government will be in on Thursday? You haven't even

advertised to the public that Bill 136 is open for public debate.

Further, many rural Ontarians do not receive cable television and some small urban areas do not receive cable television. In some situations, the House is only shown at midnight and only question period is shown. So how is the public to know that the government is open to discuss Bill 136 unamended, as the minister leaves us? How are we to let the public know that they must rush here to Toronto or prepare for a teleconference that may take place if facilities and operational material are available? I simply don't know how the public is going to respond to this situation.

The ministry has all the capabilities to themselves. They have lawyers. They will be able to prepare the amendments; it should have been done by now. But we in the opposition will have to prepare our amendments on very short notice, over the weekend. Will legislative counsel be available on the weekend so that the opposition can be assured that our amendments are in order?

The Chair: Mr Hoy, there is no legislative counsel present today, but my understanding is that yes, they would be available.

Mr Hoy: It's good to hear that we have some concessions from the government, that legislative counsel will be here throughout the weekend and at all hours, because obviously we're going to be working very diligently at this.

This is one of the government's major pieces of legislation. I suspect it's why we were brought back early in this session. Here we are, at a point in time when no public persons are aware, in a broad sense, of what we are about to do. We had a subcommittee agreement on what this committee should do — allocate further time to the public — and it was defeated by the government. We have this impossible and bizarre motion before us for the public to try to address.

The deadlines are severe. As I stated, we're going to be starting teleconferencing by Thursday. Within those parameters, final scheduling authority will be delegated to the Chair of the committee — total control over the teleconferencing. Will the government provide us on Wednesday a full report on your attempts to achieve teleconferencing and make it available to us, as to whether we are going to be into a teleconferencing mode or whether we will have presentations made here live and in this room? Will the government commit to stating by Wednesday whether they can achieve teleconferencing?

We get no response. This is an affront to the people of Ontario. They don't know what is in the minister's mind. We haven't been given the amendments. It's an affront to the women and men who work. This business attitude that the government takes is not serving us well.

The Parliament is about the people, and they are not getting proper, prior and sufficient notice about the debate to take place on Bill 136. The government wants to hide from the people. You're in a rush: "Let's ram this through. Let's have it done." But I suggest to government members, probably in the next year or so you'll be out meeting people day after day at barbecues and all public manners, saying, "Vote for us." It'll be the only time that government members really want to consult with the people. It will be after they have done such things as they want to do in Bill 136. As a matter of fact, I have people driving hundreds of miles to my office because they cannot get to a government member. They travel great distances to come to me because you're all in hiding.

1540

If you're inviting people to come and speak on Bill 136, what is it that they should speak to? The minister has given overtures that the bill is going to be significantly changed, but she will not present us with the amendments, will not give them to us in writing. I find this an affront, to invite people to come and speak to a bill they do not know the contents of. This is ludicrous, absolutely bizarre. It is a continuation of your bully tactics, your abuse of power. Our privileges in the opposition are being trampled. I find this to be not acceptable.

In Manitoba they have experience with teleconferencing. Before they get into that mode, they know how many witnesses in total will be present. They have some plan. They have some idea of what's going to happen that day. Videoconferencing would be more problematic to organize because legislation is often referred to committee with very little notice. That's what we have here. Their experience is that it doesn't work very well. Further to that, they do not use it very often. They only use it in remote areas and in extreme circumstances. I suggest that your attitude, through this motion, flies in the face of good advice from other jurisdictions.

Local opinion has been questioned by members of this committee in the past. They say that the parents' organizations will be here. But those persons in the local area, those with affiliates, those who have personal interest in any government legislation, deserve to be heard. We should be talking to the broader public on all major pieces of legislation.

For instance, in my riding there's a gentleman who's afraid he's going to lose his job as a custodian. Further, his wife, a nurse, has had her hours cut dramatically and she's fearful that under other pieces of legislation and Bill 136 she may lose her job completely. These people want to bring their stories to the committee. They're approaching the age of approximately 50. They have young children — they started their family later in life — who are still in public school. They are worried about their future under the legislative program of this government and I'm

sure they would be interested in what is happening to Bill 136.

But with the time frame you've laid upon us for presenting to the public the concerns within the bill, unamended as it is, with promises that it will be changed, it would be most difficult for any reasonable person to address. We have not been told about the cost-effectiveness of telecommunicating. This government is big on cost. We have no idea about the cost, the effectiveness, the capability of doing such a thing. We have no commitment from the government about what they will do on Thursday should it fail.

I can't for the life of me imagine how you're going to tell the public, "We'll be doing teleconferencing in three or four locations," but if that fails, then saying to those other people who are going to make personal presentations that they scurry on down to Toronto and have it done. This amendment was put together with a bullying tactic in mind. It was written by someone who must be a novice. It is shameful and bizarre and I think continues to show the disdain the government has for the broader public.

Mr Richard Patten (Ottawa Centre): I support the comments made by my colleague. The motion as it's put forward is not, in my opinion, workable. It needs to be rethought. He mentioned the teleconferencing, which for sure would — unless the committee's decision has been pre-empted and arrangements have already been made. If they haven't, I don't believe it's possible to do this in two days, notifying people that they have the opportunity to speak, let alone people being able to put their thoughts together to respond to what is actually the government position.

We know what the intent of the government position is, but people come before us to react to a piece of legislation, and the major components of the piece of legislation are up for grabs, with some changes. Why are the amendments or motions to change the legislation not before us? If one of the reasons is that they're being worked on at the moment and it takes time, then how in God's name can you give the opposition only one hour of the next sessional day to see what you've got in mind, digest it, react to it and listen to what anyone else has said throughout the hearings? It makes a mockery of the hearings, because what you're saying essentially is, "Regardless of what people say, our amendments will happen at a certain point in time," and it will not be based upon what has been said, because you won't have the time to make those amendments either.

I don't know who drafted this particular motion. You've got a lot of associations in here that are based in Toronto. As I mentioned yesterday, people from outside the Toronto area should feel indignant. The attempt by the minister to substitute actual hearings with teleconferencing — anyone who was at the meeting when we spoke to a government member from Manitoba knows he said that it is not a substitute for actual face to face hearings. It may be used in certain areas and in special cases where there may be an interest in less than five members of the public.

We have populations throughout Ontario, in northern Ontario, where you're talking about "if possible." The motion even uses that word. Normally that wouldn't be used. It's not: "We shall proceed with teleconferencing. We will hear what people have to say." It says "if possible." Looking at the general pattern of trying to ram this stuff through in such a short period of time, one wonders whether you're serious about even using this mechanism to get the minister off the hook. As you well know, when I asked her in the House, she said she definitely would travel — unless of course she astral travels and that's another way of communicating with people.

My final point is that I believe you've placed the legislative staff in an embarrassing position because they will have to scramble like crazy to listen carefully. We have from Friday afternoon at 5 o'clock — which isn't normally a sessional day anyway, but we're meeting all that day; fair enough. But what I resent and find totally unpalatable is that at Friday when we finish and have heard from everyone, the normal procedure is that legislative research puts together the frequency of what has taken place, who has commented on the bill and what sections, how many people have addressed a similar area, what kind of weighting, things of that nature, which is an assist. That's why they're there, to help the committee members to respond to the legislation. But of course that really won't be possible unless it's a very tertiary kind of summation, and we can't wait; we will have to begin our own assessment of what is there, without having the wisdom and the skill of the legislative research.

But that's the way you like to operate. This isn't the only committee that is experiencing that. Bill 99 was force-fed as well, and likewise on the Tenant Protection Act. The committee didn't receive the researcher's comments until halfway through clause-by-clause.

People don't pay much attention to it. Their eyes glaze over when we talk about procedures, because they're interested in the issues. But one issue is called democracy. I said it yesterday and I'll say it again: We are now the most undemocratic Legislature of any jurisdiction throughout this country. This kind of stuff does exactly that kind of thing. You're trying to ram stuff through. What the hell is the rush? Why couldn't you take an extra week or two and be satisfied, at least ethically and morally, that you gave the people of Ontario, as your minister promised, a chance to respond to this legislation. It makes a mockery of this whole process.

Mr Ted Chudleigh (Halton North): Clearly the opposition parties are filibustering on this issue. They're using procedural tactics to delay the start of public hearings on Bill 136. I don't understand how the opposition can claim to want to consult with the public on this bill when they are preventing the committee from doing just that. Since about 3:30 yesterday afternoon, the committee has been debating nothing more than how to organize the time allocated for the committee's consideration of Bill 136. We have already spent over three and a half hours on this discussion, and the longer this debate lasts, the longer we prevent the Chair and the clerk of the committee from

scheduling witnesses' presentations and the fewer witnesses we can accommodate. This filibuster is not in the best interests of the public we serve, Madam Chair, and for that reason, I move that the question now be put.

The Chair: Mr Chudleigh has moved that the question now be put. All those in favour?

Mr David Christopherson (Hamilton Centre): Point of order.

The Chair: Sorry, we have to continue. All those in favour?

Mr Christopherson: You've got a point of order, Chair.

The Chair: Thank you. Those opposed? That motion is carried.

Interjection.

The Chair: I'm sorry. The rules of procedure don't allow that at this point.

The committee recessed from 1551 to 1606 and resumed in room 151.

PUBLIC SECTOR TRANSITION STABILITY ACT, 1997

LOI DE 1997 VISANT À ASSURER LA STABILITÉ AU COURS DE LA TRANSITION DANS LE SECTEUR PUBLIC

Consideration of Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act / Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.

The Chair: Good afternoon again. The standing committee on resources development is once again called to order, this time in room 151, to undertake hearings on Bill 136.

Mr Bart Maves (Niagara Falls): On a point of order, Madam Chair: In light of a request from the third party and the opposition party, I'd like to ask for unanimous consent that, without further debate, the committee instruct the Chair to add the following organizations to paragraph 3(a) of the motion which we have just passed. Those organizations are the Ontario Public School Teachers' Federation, the Ontario English Catholic Teachers' Federation and the Employment Standards Working Group.

The Chair: Do we have unanimous consent? There is unanimous consent.

STATEMENT BY THE MINISTER AND RESPONSES

The Chair: All right then, without further ado, we are honoured to have Minister Witmer join us as our first presenter this afternoon. Minister Witmer, thank you for coming on such short notice. I'm sure the members of the committee appreciate that. You have 30 minutes for a presentation, 15 minutes for each of the opposition parties. Welcome.

Hon Elizabeth Witmer (Minister of Labour): Thank you very much, Madam Chair. It's certainly a pleasure for me to be here today and to have the opportunity to comment on Bill 136 as we begin the public hearing process. I want to thank all members of this committee for the work they're prepared to do. I also want to thank those who will be making presentations over the course of the next four days.

In thanking those who are going to be appearing before the committee, I know that their input is going to be as valuable as the input that we have received thus far as we have conducted some very productive consultations with many of our stakeholders. We've been in discussion with the Ontario Hospital Association, the Association of Municipalities of Ontario, the Toronto transition team, the OFL and the police. These are the major stakeholders and I would simply indicate to you that those consultations and that input has been very, very productive.

I look forward to the input that we will receive this week, in order that we can make the final changes to the legislation and ensure that the changes we make will ensure a smooth transition as the government embarks on a restructuring process designed to provide the best services and programs to the people of this province at the best cost.

As you know, as a result of the amalgamations of the municipalities, the hospitals and school boards, about 450,000 employees are going to be impacted and about 3,300 collective agreements will also be impacted. In an effort to manage the labour aspects of this change fairly and to ensure that during this transition period there continues to be services provided for the people, Bill 136 was introduced.

Our government has always stated that it is unconditionally committed to reaching its objectives. But we have also stated at the same time that we have been very open to discussion as to how to reach those objectives. Certainly in the months since the introduction of Bill 136, as I stated, we have continued to meet with all of the major stakeholders to discuss the best ways of ensuring a smooth public sector restructuring. We have received during the course of those discussions suggestions for alternative ways of meeting our goals, so the changes I announced last week are the product of the meetings and the product of the consultation.

Maybe at this point I would just share with you some of the key changes to Bill 136. Basically, last week I indicated that we were removing the restriction on the right to strike, and I believe that in the meeting today with the

OFL there was certainly concurrence on both sides that that had indeed happened.

We are providing that the first-contract provisions of the Labour Relations Act apply to bargaining for a first collective agreement after a merger or amalgamation in the broader public sector. As you know, we are replacing the proposed Labour Relations Transition Commission with the OLRB. We are also ensuring that, following a restructuring, employees have a choice of union representation, and this will be determined by a democratic secret ballot vote.

We will be eliminating the proposed Dispute Resolution Commission and we will be returning to the current legislative provisions governing the appointment of arbitrators and applying procedural reforms proposed for the DRC to the arbitration processes outlined in the fire, police and health legislation. This will include expedited arbitration, the use of other forms of arbitration and an emphasis on mediation. Also, our changes will ensure that the police retain a separate and distinct arbitration regime.

I'd like to speak briefly to four of the key principles involved with Bill 136. The principles that we were determined to keep uppermost in our mind as we move forward to ensure this smooth restructuring in the municipal, school board and hospital sectors were the following. We wanted to make sure that collective bargaining continued to be encouraged. We wanted to ensure that employers and employees have the tools to deal with the labour relations issues in a fair and expeditious manner. We wanted to ensure that there was a smooth transition, with minimal disruption of public service. We also needed to make sure that all employees, whether they are unionized or not, be treated fairly as the restructuring occurs. Of course, one of the key issues of concern here, particularly to the non-unionized employees, was the issue of seniority and also the issue of union representation.

I'd now like to turn specifically to some of the new powers that are going to be given to the Ontario Labour Relations Board, since we are giving them the provisions that were formerly contained with the Labour Relations Transition Commission. After consultation with our stakeholders, we have determined that we will use the OLRB and we will be giving them the specialized and expeditious processes that were originally provided through the LRTC in order that they can deal with the transitional labour relations issues arising out of the broader public sector restructuring in an expeditious and timely manner.

The OFL stated in their alternative document that "the Ontario Labour Relations Board has a long and trusted history of independent and impartial adjudication." We certainly do agree. As the restructuring takes place across this province, in order to deal with the complex labour relations issues that are going to result from restructuring and amalgamation, the provisions that were given to the LRTC will be provided to the OLRB.

Obviously some of these provisions include the following. They will, in the case that the workplace parties cannot resolve these issues, be able to determine effective and rationalized bargaining unit structures that are appro-

priate for the new employers' operations. In other words, when an amalgamation takes place, although the workplace parties themselves will be able to determine who is in the new bargaining unit or who is the new bargaining agent, in the event that the workplace parties cannot make that decision themselves they will be able to ask the OLRB for assistance. Also, if the issue of seniority cannot be resolved by the workplace parties, this issue can be decided by the Ontario Labour Relations Board.

In the case of the first contract and in the case of retaining the composite or stapled agreements to bring stability during the negotiation of first post-amalgamation agreement, again, if the workplace parties cannot agree, that will be the responsibility that will be given to the OLRB.

In each and every case, the OLRB will have the provisions that had been given to the LRTC.

There are a few other changes to the way that Bill 136 will help determine which union will represent employees. As I indicated, Bill 136 had originally established some very specific numeric thresholds which the LRTC would have used to decide bargaining agent issues resulting from restructuring where the trade unions were unable to resolve the issues themselves. Under our proposed changes to the legislation, if the trade unions are not able to agree on who the new bargaining agent should be themselves, the thresholds that had been originally established in Bill 136 will be replaced with a requirement that the Ontario Labour Relations Board conduct secret ballot votes when decisions are required in all of these particular cases.

An additional change to the way in which Bill 136 will help determine which union will represent employees is the requirement now that where a restructuring includes unionized Ontario public service employees who are represented by the Ontario Public Service Employees Union, or OPSEU, or another union or association, that name, whether it be OPSEU or the other union or association name, will now appear on the ballot when a vote is conducted on representation issues.

The other change as a result of the consultations that we have had is that Bill 136 will now, where appropriate, allow the employers and the unions to retain specialized bargaining units for professional staff such as nurses.

Turning to the right to strike: In response to requests from both AMO and the OFL to reconsider the restriction on the right to strike, and based on assurances from labour leaders that public services would continue without disruption or instability during restructuring, we are removing the Bill 136 provisions which restricted the right to strike and lockout. We will now instead extend the existing provisions of the Labour Relations Act covering contract negotiations to the new situations.

With the elimination of the Dispute Resolution Commission, the employers and unions would now have access to section 43 of the first-contract provisions of the Labour Relations Act. As you know, section 43 of the Labour Relations Act was enacted in 1986 at the request of the unions and it was part of the Peterson-Rae accord. Under this section of the Labour Relations Act, if after negotia-

tions the employer and union have been unable to reach a new first collective agreement, either party may apply to the Ontario Labour Relations Board to seek an order that an agreement be settled using arbitration.

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Under this section, the OLRB has the authority to order arbitration to take place if it determines — and there are four criteria here — (1) that the employer has refused to recognize the union's bargaining authority; (2) either party has taken an uncompromising position without reasonable justification; (3) either party has failed to make reasonable or expeditious efforts to conclude an agreement; and (4) for "any other reason the board considers relevant."

Under this section, if the OLRB rules in favour of arbitration, the union and employer are free to select an arbitrator agreed upon between them or they can request that the Ontario government select an arbitrator on their behalf.

I would now like to turn briefly to the criterion "ability to pay." The government will be extending the ability to pay and the other criteria Bill 136 proposes, that arbitrators consider for the hospital, police and fire sectors, to new, post-amalgamation, first contract arbitration proceedings which take place under section 43 of the Labour Relations Act.

As you can see, the changes we are making will certainly provide employers, employees and their representatives with the tools and processes they need to ensure that the transition to improved public services takes place smoothly, fairly and expeditiously.

I'd now like to turn to almost half of the employees in the broader public sector who do not have the right to strike. This includes some 25,000 police officers in local forces as well as those employed by the Ontario Provincial Police. It includes nearly 10,000 full-time firefighters and 192,000 workers in hospitals and nursing homes.

After a very productive and lengthy consultation, the government has decided it will not proceed with establishing a dispute resolution commission to conduct interest arbitration in the police, fire and hospital sectors. Instead, the government is proposing a return to the sector-based system of appointing arbitrators to resolve disputes in these three particular areas and reforming the existing arbitration systems as they are set out in the Fire Protection and Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act.

We are still trying to address some of the problems that have been raised with the current interest arbitration system. We want to overcome the problem of widespread reliance on arbitration to resolve collective bargaining disputes. We want to ensure that we don't have the slow, legalistic and costly nature of the current interest arbitration system. Unfortunately, today sometimes settlements are not arbitrated until months after the previous collective agreement has expired, and unfortunately it creates problems for both unions and employers. There certainly was a desire on the part of many that change was needed to

address the issue of long delays, costly delays in the current arbitration process.

There was also the issue of the fact that interest arbitration awards do not always reflect the economic and fiscal reality of public sector employers. Based on the concerns that have been raised about the current interest arbitration system, our changes will address those concerns that have been expressed to some degree by all of our stakeholders.

The government's proposed changes to Bill 136 will change the Fire Protection and Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act to create expedited time lines to ensure the quick and timely resolution of disputes in the police, fire and hospital sectors. It will continue with the Bill 136 changes which provide arbitrators with more choice to deal with collective bargaining disputes in the police, fire and hospital sectors. More choice is going to include using mediation, mediation arbitration and final offer selection during the arbitration process.

As well, we will continue to require arbitrators to consider various criteria such as a public sector employer's ability to pay and the extent to which services would have to be reduced if funding and/or taxation levels were to remain unchanged.

We trust that the system we are proposing will continue to encourage negotiated settlements instead of arbitrated contracts. As well, I just want to remind you that the police will retain their separate and distinct arbitration regime.

Taking a look briefly at the issue of pay equity in the present act, members are no doubt aware that there has been a significant court ruling on the issue of pay equity. At this time the government is obviously considering that ruling and will be awaiting further discussions during the course of the next four days on the issue of pay equity. We would certainly welcome further input.

Those are some of the primary changes that we are proposing to Bill 136. We have had meetings in the course of the last four or five days with all the major stakeholders. We have provided them with additional information, considering more of the details, and they have continued to provide us with additional input in order that we can ensure that the legislation is balanced, that it is fair and that it will allow us to achieve our long-term goal of a smooth restructuring to better service at less cost to the taxpayers in this province.

I would just like to conclude by saying we have demonstrated our willingness to listen and consult and make change and we are certainly prepared to make further change to Bill 136 as a result of the information that is received this week. I certainly look forward to the input and I wish you well in the four days of public hearings that await you. Thank you.

The Chair: Thank you very much, Minister. We now have time for 15 minutes of response and we'll begin with Mr Patten from the official opposition.

Mr Patten: I'd like to use my time with some questions to the minister if she will entertain them. The first

question I would like to ask is — we've heard this before. As you say, you've explained a few more details today, but why would you not table the amendments or motions that you have in mind so that those who are coming to provide their points of view will know what they're dealing with in specific terms, in legislation terms, and remove the doubt as to the sincerity and meaningfulness of what you are saying verbally? There's nothing in writing. It's like having a contract with someone and they say, "I'll do such-and-such," but your experience hasn't been the best and you say: "How about something in writing? How about a contract?"

That's what people respond to when they respond to legislation. They look at it and say: "There are some provisions in here I don't understand," or "I have some recommendations for changes," or "The implications of this weren't understood before, but now I see that this might have something and it's a basis for further amendments to the legislation." Why would you not table your amendments when you have a bill that essentially has been, I would say, pretty well gutted, and provide the witnesses with a chance to respond to the change of heart on some of the provisions in the bill?

1630

Hon Mrs Witmer: I would just remind the minister that oral contracts are every bit as binding as written contracts. I am now on record, not only in this committee but also in the House, as to the proposed changes we are making. Obviously, we need to now move forward and provide the taxpayers in this province with the opportunity to provide further input. At the end of the four days of discussion and consultation we will then refine the amendments to the legislation and we will table them at that time. Certainly we have very clearly enunciated now the changes we're prepared to make. We've had meetings with all of our stakeholders. They understand the changes. I understand the meeting with the OFL today dealt with the details they were requesting. I am quite confident now that we can move forward and give the rest of the people in this province the opportunity to respond to the changes.

Mr Patten: Thank you for calling me "minister." I used to be one. I am no longer one.

Hon Mrs Witmer: Well, maybe you will be again.

Mr Patten: Perhaps. The time frame for responding to the amendments is ridiculously short, and I know you have this sense of urgency of getting through this piece of legislation as rapidly as possible. I have some appreciation for that. But surely to leave the opposition parties in a position of having to react to the amendments that are put forward by the government, essentially one hour, do you think that's fair? Do you think that honours the tradition of the Legislature in terms of providing the elected members with an opportunity to respond to what the government is proposing?

Hon Mrs Witmer: I think if you carefully take a look at what has transpired during the introduction of Bill 136 in June this year, we have undertaken consultation with all the major stakeholders who are going to be impacted by this legislation, both the employers and the employee

groups. When I talk about the employee groups I'm talking primarily about the unions. It's as a result of that consultation, the hours and hours of consultation not only between myself and the stakeholders but the hours spent by my staff, that we were able to move forward last week and even prior to the committee hearings this week were able to give the direction for the change and announce the specifics of the change. I think the type of change that was introduced last week was a compromise of the viewpoints that had been put forward. So I feel very confident that there has been a good deal of very fruitful, honest and productive input thus far. I look forward to the continued input this week.

Mr Patten: The committee, the government's side, moved a motion to utilize teleconferencing if possible. I doubt if any of that will take place, because I don't think it's possible to set it up in two days, especially in remote areas — we just agreed to the places today — unless someone anticipated and started work and pre-empted the committee. But on June 4, when I asked you the question in the House, you said you would travel and face to face listen to people. The advice we had from Manitoba was that this should not be a replacement for hearings, that it can be used in remote areas where there may be requests for representation by fewer than five people. Yet we have the people throughout eastern Ontario, northern Ontario, all over, who will only have a chance if possible through teleconferencing to react, or send in some kind of brief, which we would have to absorb and read and all this kind of thing. Why did you change your mind on not travelling the province as you said you would do?

Hon Mrs Witmer: I would just refer you back to the consultations which have been ongoing since June this year. We have been meeting on a regular basis with the major stakeholders, and whether we talk about the hospitals that obviously represent all hospitals in this province, whether we talk about AMO, which represents all the municipalities, or whether we talk about the OFL, which collectively represents unions in this province, we have ascertained from them the concerns that have been of primary importance.

We have also learned from them what changes they believed were necessary in order to ensure that the legislation was fair and balanced, and we're now looking at having the videoconferencing because the government is looking at new technology, at new ways to reach out to as many people as possible. We believe that in this time, when we have had such extensive consultation, this would provide another opportunity for us to use the new technology.

Mr Patten: Can this be done by Thursday?

Hon Mrs Witmer: I would trust and hope that it can be done, Mr Patten.

Mr Patten: Okay. I'm going to group these two together because it's a part of the bill that hasn't been addressed. I take it by your comments that you're probably positioned to withdraw that section.

Hon Mrs Witmer: Which one?

Mr Patten: The one on pay equity.

Hon Mrs Witmer: I indicate to you that we have made absolutely no decisions. We are considering that section in light of the decision that was handed down by the courts. As I indicated in my remarks, I would certainly welcome further input this week from making presentations.

Mr Patten: Because we don't know and you didn't comment on it, is there anything you're considering that is related to the wage protection program, which as you know unfairly, in the case of bankruptcies, takes people who have earned a salary and are due wages, and places them at the bottom of the list after the banks or after distributors or other clients? Has that been reconsidered in the light of fairness to employees in Ontario?

Hon Mrs Witmer: We have carefully re-examined all parts of the bill, and as you probably know, we were the only province to have such a program available. Since becoming Minister of Labour, I have actually been lobbying your federal colleagues and asking for these employees to have higher status within the act. Unfortunately, we have not received a positive response from the federal government, even though I got the support of the labour ministers at a conference last year. Maybe with your help, if we work together —

Mr Patten: Absolutely.

Hon Mrs Witmer: — we can obtain a higher status for these employees.

Mr Patten: I'll have to read the transcript, but it seems to me you're transferring the frames of reference, or functions and responsibilities of what was the transition commission, to now the Ontario Labour Relations Board. Is that as the Ontario Labour Relations Board is now structured?

Hon Mrs Witmer: The Ontario Labour Relations Board will need to be given some additional resources and some additional powers, so there will be some slight changes there. As you know, the LRTC was actually a temporary commission and was not going to be continuing into the future.

Mr Patten: The dispute one was not —

Hon Mrs Witmer: Permanent.

Mr Patten: That's right. I gather you're asking for feedback or you're asking for comment. The ability to pay in public interest, as part of the criteria of consideration: You have probably in your discussions with the labour movement realized that workers anywhere in the province today are not stupid. They know the conditions of the times. They know what municipalities or hospitals are facing, cutbacks in the province and all this kind of thing, and that there's a spirit of reasonableness. I haven't heard anybody start talking about wild and crazy wage increases or anything of that nature. The ability to pay: I don't know of any company, even if they've had a massive, billion-dollar surplus, I don't know of any instance where someone said before they entered into labour negotiations, "We're flush and we're just eager to get to the table in order to pass along some of the major profits that we've had in the couple of years."

According to the professional arbitrators, they're saying this is kind of a violation of the spirit of professional arbitration. In terms of the public interest section, I gather one of the quotes we have here from you, I think it was today, was that the public interest clause wasn't something you would be interested in pursuing but that you would welcome comments from people. Are you prepared to —

Hon Mrs Witmer: We're looking at any information or any input related to Bill 136. It's not something I'm going to pursue personally, but if there are issues that have not been adequately addressed, if there are some additional changes or provisions to the legislation that people would ask us to take a look at, we're prepared to consider all of those. Mr Patten.

1640

Mr Hoy: I have a brief question. Minister, you're saying you want to refine your amendments and you want help from anywhere: the public at large, opposition parties, members of your own government.

Hon Mrs Witmer: Yes.

Mr Hoy: How are we to help you refine amendments that we have not yet seen?

Hon Mrs Witmer: I would like your response to the changes that we are proposing.

Mr Hoy: I have some difficulty with your answer, but be that as it may, that is where you are going to stay.

You were talking about the OLRB and rolling in what you had in mind under the LRTC. Are you going to make the provisions for the Ontario Labour Relations Board equal to what existed in your previous plan to set up the LRTC? Will they have the same powers even though you're going to —

Hon Mrs Witmer: The majority of provisions will be transferred to the Ontario Labour Relations Board.

Mr Hoy: Including the criteria?

Hon Mrs Witmer: Including the criteria. The criteria will be there.

Mr Hoy: So maybe it's not quite the change you proposed a day or so ago.

Hon Mrs Witmer: It's the very same. I've always indicated that the provisions of the Labour Relations Transition Commission would be transferred to the Ontario Labour Relations Board. As you know, these powers in some instances, for example, will be temporary because they will only be used in the event that the workplace parties cannot resolve some of these issues themselves.

The issues I would again refer you to are issues such as who is going to be the new bargaining agent, who is going to be part of the new bargaining unit, how do we determine a seniority, how do we determine what the first collective agreement looks like? These are some of the issues that, when the workplace parties cannot resolve the issues themselves, could be handled by the OLRB.

What we want to ensure is that these issues are dealt with in a very expeditious manner. I think it's important that the employees who are impacted by this legislation and by the change have as much certainty as possible and that the certainty be provided within the shortest time frame as possible as well.

The Chair: We'll now move to members of the third party.

Mr Christopherson: Minister, you keep saying that you want to listen and you want input and that you're sincere and everybody should understand how good-hearted you're being about this. The reality is, if you just shifted this time frame by, arguably, one or two weeks, you would remove a large part of the immediate criticism you're facing here today. The fact is that you are someone who stood in this Legislature and you made a promise. You promised: "Yes, I commit to you that there will be full public hearings. We will travel the province...." As a minister of the crown on behalf of the government you made that promise. Last week you stood up and broke that promise to all those who have an interest in Bill 136 when you rammed through your time allocation motion and kept everything jammed up here in Queen's Park for a few days.

There is a lot of question, with respect, Minister, about what your word is worth. You could eliminate much of that here today if you said: "Yes, I am listening to the opposition members; yes, I'm listening to the labour movement; yes, I'm listening to all those who are affected by this, and I will submit to this committee the amendments that I'm prepared to make in writing prior to your holding any kind of public hearings. As truncated and as sham as they are, I will at least do that much." You would eliminate a lot of the immediate criticism you're facing.

But you don't seem to want to do that. You seem to think you can bulldoze this through and that people somehow are still going to believe that you really want to listen. It's insulting that you think people are that stupid, that they wouldn't see there's nothing fair about gutting a bill that's tabled on the floor of the Legislature and then asking people to comment on a gutted bill without knowing what the new version is.

You've left us three and half days now. God only knows what the people are supposed to say and comment on this evening, how they're even supposed to have heard what you said today, let alone what the amended bill might look like. I don't know what those people this evening, if you can find anyone, are going to say. They'd better be prepared to have emergency meetings of their organizations this evening to compile and cobble together some kind of submission to be made tomorrow, if they're one of the unfortunate ones coming up that early, albeit fortunate enough to get on any kind of a list at all, given how little time you have left here.

By Friday at 5 o'clock you shut down all input. Then by Monday morning at 10 you want in legal form our amendments. I want to ask you, Minister: How do you expect anyone to fairly consider what has been said? We don't even get the researcher's report on the Friday submissions until 9 am Monday. At 9 Monday morning we get the researcher's report on the Friday submissions, and one hour later we're supposed to have in legal form the amendments we want to see to some phantom new Bill 136B.

This is an absolute joke. I say to you, Minister, if you want to try to salvage something of your credibility, then announce at the end of these comments that you're going to change the time frame and provide us with those amendments and that you'll give people time to consider them. There's nothing outrageous about that. It's about the only fair and balanced thing in this whole process you could possibly do.

I also want to mention, because a lot of the media are saying, "Now that Bill 136 is being gutted, and if the minister follows through on her word" — which we hope, but aren't sure — "then everybody must be happy because everything has been alleviated, all the things that got everybody upset": No, they aren't, for two reasons. One is that all it takes, and those of us who are lawmakers know this, is one clause in a section of a bill to negate an entire set of privileges and rights that you might have somewhere else. One clause, one sentence, sometimes one word can make that much difference.

The other thing is, your government's continuing attack, and as a female minister of that cabinet you should be doubly ashamed, on pay equity is still in there. I have not heard you say you're standing down. I heard some wishy-washy language about the courts and, "We'll see what we're going to do," but you're the same minister who backed Bill 26 that took the first attack — illegal as it has turned out — on pay equity rights and you still refuse to sit there today and say you're going to eliminate it from the current Bill 136.

Then there's still that whole issue of the employee wage protection plan, a plan that yes, we brought in, so I feel somewhat defensive about it, but the NDP brought in a plan that said, "If you're a worker who is owed wages and vacation and termination and severance pay because of a closure or a bankruptcy, through no fault of your own, we'll make sure that your wages are covered and we'll use the force of government to go after that money and get the pay back." That was a fair plan for workers who are facing arguably the most fiscally damaging crisis of their lives. You're taking that out, and it's only so that you can steal \$25 million out of the pockets of the workers who face that kind of disaster. That's still what Bill 136 is all about.

I want to spend a couple of minutes reflecting. Let's remember that the original Bill 136, in my opinion, showed your true colours. You're not backing down now because you've been listening; you're backing down now because you can't win. You were quite comfortable and you are not stupid enough to believe that you weren't clearly taking away the right of workers to have legal, democratic strikes and that you weren't watering down and eliminating independent arbitration in this province. You knew that and you still supported it, and so did your backbenchers support it. You were prepared to do it. The only thing that stopped you was the reaction, and not from labour, because you expected that reaction. What you didn't expect was that all of labour, private and public, would get on side. Some 2,400 delegates came to the first-ever emergency convention of the Ontario Federation of

Labour in the dead of summer and they had the largest convention in their entire 40-year history. Why? Because they were not going to stand by and let you attack their rights under Bill 136, whether they were a private sector or a public sector.

1650

What else happened? AMO went offside. Man, that blew you out of the water. The Association of Municipalities of Ontario voted against your Bill 136 and now your own friends were offside.

But you had another interesting problem. This hasn't been talked about enough. You had a real problem with police and firefighters. They've been into my offices and I know they've been into the government backbench office. You folks are terrified of being offside with them in any way, shape or form. You only had a few options. If you had hived off police and firefighters and left everybody else, you would have had one hell of a problem, because clearly you've been taking care of those who you thought were politically on your side, and to hell with everybody else. That was a problem. If you left them in there, you might have had even a backbench revolt.

What to do? When you took a look at your polling and you took a look at where AMO was and the fact that the labour movement was unified, guess what? Communities were coming on side too because they began to realize they were going to pay the price for your hard, right-wing agenda and they weren't willing to pay that price. You had only one option: to stand down, retreat.

Then we get into the bizarre part. We go from the mean part to the reality part to the bizarre part. The bizarre part was that as the momentum was just day-by-day building, the way you'd expect, over Bill 136 and meetings were being held in the public sector and votes were being taken — but it was still marching along — you came along, obviously already having made the decision to stand down, and lit the fuse and dropped the time allocation motion on the floor, which put the whole province on a crisis footing within a few hours. Suddenly we had the province ready to be shut down within a few days. Then you got up the next day and said: "I give. I didn't mean it. We're not really going to have a fight." I hope the historians are able to dig that out because I would pay big time to know the truth of how that unfolded and how we ended up at that point.

Let me end my comments, because I know my time is running out, by saying to you that the only time you started to offer any real meetings was when we returned on the first day of the House after the OFL had a special convention. They flooded the public galleries and your Premier stood up and said, "I said I would meet with you, Gord Wilson; I'm ready to do that." Gord Wilson popped up in the public gallery — he got thrown out for it but he did it none the less — and said, "I'm here, Mike; I'll meet you any time, anywhere."

That's what started any kind of discussion. Who knows what decision you had taken by then or whether or not you had finalized your decisions? History will have to tell us about that. But up until then there had been nothing but

games and you had not offered any kind of listening. If you were serious about listening — and I ask people to think about it — if this is a position the government came to with the gutting of Bill 136 because they were listening and that's the kind of government they are, why didn't they listen in the beginning? Why did they not meet with one single labour leader before they tabled Bill 136? Why didn't you talk to them beforehand? You waited, you pulled it all together in secret and then you dropped it on the province like a bomb.

I can only hope that when people reflect on what has happened, how it has happened, what is happening here, this sham of a process and this stuff about teleconferencing — this is unreal — the cyberspace consultation we're going to have with maybe three or four communities — it's ridiculous and it's insulting, Minister.

I say to you very sincerely, right now I'm prepared to give you some due credit for listening if you say: "You know, you're right. The only way I can offer up any kind of fair process is to postpone these hearings long enough to table formal amendments. I will honour my commitment." I say to you that I'll be prepared to sit down in the subcommittee and have reasonable discussions about where we will go if you really are standing down on most of this stuff. We'll put together a process that honestly shows people in this province that you are listening. If you don't, then all your talk about listening and caring and being fair and balanced is that: words. We know what your word is worth at this point.

The Chair: There's a little bit of time left, Minister, about four minutes if you wish to respond.

Hon Mrs Witmer: I don't wish to make a response.

The Chair: On behalf of the members of the committee I thank you for coming on short notice. It's very much appreciated.

I believe we have representatives now from the Ministry of Labour who are prepared to present a technical briefing. Good afternoon and welcome. We're very pleased that you're able to come before us this afternoon. If you would be so kind as to introduce yourself for the Hansard record. We look forward to your presentation.

Mr Ron Saunders: I'm Ron Saunders. I'm the director of the employment and labour policy branch at the Ministry of Labour. I propose to take the committee through two sets of documents. One set you should have had distributed in binders that would have been provided by the clerk; you should have a set of three information sheets that speak to some of the key elements of change the minister has talked about both last week and just now.

What I'd like to do is just make sure people take a careful look at those sheets, take people through them. I won't cover everything in them in detail; the minister covered some of the contents of them just now. I'd like to do that first.

I also have with me a document I propose to hand out that provides an overview of the bill as it was introduced, but with reference to places where the government has announced its proposal to make changes. I propose to take

people through that document as well. I could distribute that now if you'd like.

Mr Christopherson: Just on a point of process: Normally when we're given information from the ministry we get at least two sets, sometimes three. To the best of my knowledge, there was only one given out. For obvious reasons I'd like my researcher to be able to follow along with this and I was only given the one. Does anybody know, was there a second one sent and I've missed it? Can the second one be provided? Could you get one — I say it as politely as I can — as quickly as possible? It would be appreciated.

The Chair: We'll try to find you some more right away.

Mr Saunders: If I may proceed then, I call your attention to the first of the information sheets. There's one entitled "New Powers for the Ontario Labour Relations Board to Deal with Transitional Labour Relations Issues Resulting from Restructuring in the Broader Public Sector." You'll see there a description of what is intended by the minister's announcement of last week and remarks she has just made that the government is proposing that the Ontario Labour Relations Board be given the specialized and expeditious processes originally provided to the Labour Relations Transition Commission in the bill as it was introduced so that the OLRB can deal with the transitional labour relations issues arising out of broader public sector restructuring.

The proposal is that most of the provisions that are now in what is schedule B of the bill as it was introduced would be transferred over, as it were, to the OLRB but with modifications, as they would be modified by other elements of the minister's remarks last week. I'll be talking about those as I come to them. So there are some modifications that are implicit in what the minister had announced before, and today, that I'll be talking about. There's also the possibility of modifications as a result of the deliberations of this committee.

1700

If you look further down that note then, the key provisions that are there now are briefly summarized again: the determination of effective and rationalized bargaining unit structures appropriate for the new employer's operations; mandatory seniority rules that ensure non-union employees are protected in the amalgamation process; retaining composite or stapled agreements to bring stability during the negotiation of first post-amalgamation agreement — I'll be talking in a little while in a bit more detail about each of these — providing employers undergoing amalgamations or restructuring with the opportunity to reopen the composite collective agreement which results from this process and bargain new first post-amalgamation agreements.

The note goes on to describe changes to the way that Bill 136 helps determine representation, which union will represent employees. As you'll know, the bill, as it was introduced, established some numerical thresholds. For example, it provided that if there were two bargaining units contending for representation rights and one of them

had 75% of the employees involved, if 75% of the employees who would be in the new bargaining unit had been represented by a particular agent, there would have been an automatic awarding of representation rights to that agent. So those specific numeric thresholds would have been used to decide bargaining agent issues resulting from restructuring in cases where the unions were unable to come to an agreement themselves.

Under the proposed changes that the minister announced, if the bargaining agents are unable to agree upon who the agent should be for the new bargaining unit, then the thresholds originally set out in the bill would be replaced with a requirement that the board conduct secret ballot votes in every case when decisions are required in all of these situations.

Another change that's being proposed to the way in which Bill 136 will help determine which union will represent employees is a proposed requirement that where a restructuring includes former Ontario public service employees who are represented by the Ontario Public Service Employees Union or another union or association that represents people currently in the Ontario public service, that union, OPSEU or that other union or association's name appear on the ballot when a vote is conducted on representation issues in restructuring situations. That's another proposed change that was not in the bill as it was introduced but is explicit in the minister's remarks of last week.

Consultation with employee representatives has also resulted in a proposed change that would give the board the power to allow for specialized bargaining units for professional staff in appropriate circumstances. So there's a general direction to look towards the rationalization of bargaining unit structures where the parties are not able to agree on a bargaining unit structure but there is a proviso that is being proposed with respect to specialized bargaining units for professional staff in appropriate circumstances.

That's the first general area then, the way the transition provisions are affected by the announcement, but as I say, I'm going to be going over in a minute in more detail how the transition provisions work in the bill as it was introduced, with some reference as I go along to the implications of the proposals for change.

The second broad area of change that's been proposed is in the second note that you should have in front of you, entitled "First Contract Collective Bargaining in Amalgamated Municipalities and School Boards Where the Right to Strike and Lockout Currently Exists." The government is proposing, as you know, to eliminate from the bill what is there now, which would establish a Dispute Resolution Commission. So there is a proposal to eliminate that.

The government is also proposing that for new first-contract collective agreement negotiations in amalgamated municipalities, school boards and other broader public sector employers that bargain under the Labour Relations Act, employers and unions have access to section 43 of the Labour Relations Act that relates to first-contract negotiations.

Under this section, as the minister noted earlier, if after negotiations the employer and union have been unable to reach a new first collective agreement, there are circumstances under which they may seek a ruling from the Labour Relations Board that the first agreement be settled using arbitration. The minister talked before about the four circumstances that are enumerated in the current section 43. I won't read them again now. You'll see them listed there for you in the information sheet. Under that section of the Labour Relations Act, if the board rules in favour of arbitration, then there are various possibilities for who actually does the arbitration. The union and the employer may ask the board to arbitrate the collective agreement or may agree between them on an arbitrator. If they do not agree, then the Minister of Labour would appoint an arbitrator. That is under the current provisions of section 43 of the Labour Relations Act.

There's a note there about the ability-to-pay criteria and other criteria that are in Bill 136. The government, as you know, is proposing to extend the ability to pay and other criteria which Bill 136 proposes that arbitrators consider for the hospital, police and fire sectors to new post-amalgamation first-contract arbitration proceedings, if they occur under section 43 of the Labour Relations Act.

The third and final of the three information sheets that you have —

Ms Frances Lankin (Beaches-Woodbine): Yes, excuse me. Are we going to ask questions as we go along?

The Chair: I seek the advice of the committee on this. I think perhaps it might be easier to go through a certain period and then perhaps stop for questions at the end of it.

Ms Lankin: It's just that my question is about the section being talked about right now. I just thought it might make more sense to —

The Chair: My only concern would be that if we get wound up in too many questions, we might not get through the material.

Ms Lankin: If we go through all the material, we might not answer members' questions.

The Chair: I think that we should continue and allow the presenter to finish first and then use the time remaining for questions and of course note the questions that you want specifically answered. So I think you should continue.

Mr Christopherson: How long is the formal presentation then, Chair? That might help us.

The Chair: It's an hour.

Mr Christopherson: No, but I mean, is it going to take Ron an hour?

The Chair: Do you know how long your presentation will take?

Mr Saunders: I would estimate that it would take most of the hour, but if the committee would like to ensure that there's time at the end for questions, that's the committee's prerogative, as I would understand it. I can gauge that appropriately.

Mr Maves: Chair, we've got some time this evening. Do you want to come back and ask questions then?

The Chair: Mr Maves has asked if there's possibly time this evening. I know the clerk's office is working to get people booked for tonight, but there is a possibility, I guess, that we could —

Ms Lankin: I could have asked my question in the length of time that you've been debating whether I could ask my question or not.

The Chair: You're quite right. Why don't you continue, and if there is time at the end, we'll have questions.

Mr Saunders: The third information sheet that you have in front of you is entitled "Interest Arbitration Reform in the Police, Fire and Hospital Sectors Where the Right to Strike and Lockout Currently Does Not Exist." The government, as you know, is proposing a return to the sector-based system of appointing arbitrators to resolve disputes in these three particular areas. However in doing so, the government is proposing to proceed with changes to the interest arbitration system to address certain problems identified with the system.

The minister spoke earlier to the kinds of problems that she would like to address in changes to the current system. They are listed for you at the bottom of the first page of that information sheet. There is reference to concerns about too much reliance on arbitration as opposed to negotiation — the idea, as I'll explain a little more later, is to try to provide more incentive for parties in the no-right-to-strike sectors to get negotiated, as opposed to arbitrated, outcomes — the slow nature of the current system and the fact that interest arbitration awards often do not reflect the economic and fiscal reality of public sector employers.

1710

The government's proposed changes the minister talked briefly about earlier, making amendments to the various acts in these sectors to create expedited time lines to address one of the issues to ensure quick and timely resolution of disputes in those sectors; to continue with changes that are in the bill as it was introduced to provide arbitrators with a wider range of tools to resolve disputes essentially; to deal with collective bargaining disputes in the police, fire and hospital sectors to give them a range of possible tools, including mediation, mediation-arbitration and final offer selection; and continuing to require arbitrators to consider various criteria such as a public sector employer's ability to pay and the extent to which services would have to be reduced if funding and/or taxation levels were to remain unchanged.

The rest of the information sheet there refers to first-contract situations that are described in more detail in the earlier notes, so I won't go into that again now.

What I would propose to do now is turn to the document that I take it has been distributed to everybody that's entitled, Technical Briefing on Bill 136, The Public Sector Transition Stability Act, 1997. What I'd like to do is take you through that document, which gives you a sense, I hope, of how the bill, as it was introduced, is laid out, how it's organized, what it was trying to do, but also I'll comment as we go along and as referenced to that in the

document, to key places where the government has announced an intention to make changes.

The first page then simply itemizes the key elements of the bill as it was introduced, one element being processes for resolving labour relations in issues in amalgamations and mergers. As you know, the government has indicated that it will propose amendments to the bill so that these processes would be administered by the Labour Relations Board rather than by what had been proposed as the Labour Relations Transition Commission.

The second element: processes for resolving collective bargaining disputes in the hospital, fire and police sectors, the sectors that do not have the right to strike. As I've just discussed, the government has indicated it will introduce some significant amendments in this area.

Provisions establishing new commissions to administer these processes: The government has announced its intention not to create either the Labour Relations Transition Commission or the Dispute Resolution Commission.

And then, amendments to the Pay Equity Act and the Employment Standards Act.

If you turn to the next page, which talks a bit about how the bill is structured, actually the first part of the bill, as you will have seen, is the third item on this page. It's the amendments to the Employments Standards Act and the Pay Equity Act. I'll come back to those items in just a moment.

The other part of the bill are the two schedules. So you have schedule A, that would enact a Public Sector Disputes Resolution Act, and that schedule is the one that deals with interest arbitration in the no-right-to-strike sectors. That's the schedule that, as it's currently written, proposes the establishment of the Dispute Resolution Commission. We know that the government is intending not to do that, but I will talk in a moment about some of the processes that are within schedule A because they are still relevant to the government's direction, as currently intended.

Then there's schedule B, and that's the one that deals with the so-called transition issues, how you deal with issues such as bargaining units, structure, representation rights and so on following amalgamations in the broader public sector over the next few years. I'll be taking people through how Schedule B works in just a moment.

I'll just mention briefly the Employment Standards Act and Pay Equity Act amendments as they are in the bill as it was introduced. The Employment Standards Act amendments, there are really three pieces. The first of them would clarify that in circumstances where there is in a sense, a transfer or sale of a business and an employee ends up working, let's say, hypothetically, on Monday for a new employer but doing the same thing as they were doing on Friday, they have accepted employment in a transfer of sale situation, that if the previous employer has chosen to pay severance pay to the employee in that situation, the bill would clarify that the employee, if they happen to be laid off subsequently by the new employer, would not be entitled to recover severance pay for the same period that has already been paid out.

Okay, so that's the first part of what is proposed in the Employment Standards Act amendments.

The second part would be to remove the crown's current exemption from the sale-of-business provisions. Right now there are provisions that say where there is a sale and an employee accepts employment with the new employer, that severance and termination pay need not necessarily be paid out. The employee can simply move over to the new employer, taking with them their accrued service. What this proposed amendment would do would be to allow those provisions to apply to the crown as well. So in a situation, let's say, where a crown employee was accepting employment in a non-crown situation, it could be a municipality for example, there would be the possibility then of the crown not paying severance pay or termination pay to that employee, but rather the employee simply moving over and continuing as if they had been employed all along by the new employer.

I should say "possibility" because there's nothing that would prevent, even if that amendment were to pass, the crown from choosing to pay severance pay nonetheless in such a transfer situation. It could still do so, and as I mentioned just a moment ago, if it did so, though, we'd clarify that you couldn't collect for the same period twice.

The third element on Employment Standards Act amendments that is in the bill is the proposed discontinuation of the employee wage protection program.

Then there are the Pay Equity Act amendments currently in the bill. There are essentially three of those. The first one would provide that home child care providers are not considered employees under the Pay Equity Act.

The second, that would essentially provide for greater flexibility on pay equity adjustments after a sale of business, would say that in a new organization after a sale a comparator could be used in the new organization, and that if it allowed for a lower adjustment than what had been the case in the predecessor organization, that would be allowable. That's currently not allowable under the Pay Equity Act as it's now constructed. So that's what this second element would propose.

Then the third element relates to limiting retroactive pay equity obligations for broader public sector employers in certain circumstances where a plan has not yet been posted. I will just reiterate what the minister said earlier, that, as you know, the government is considering these proposed amendments in light of the O'Leary decision, but I can't tell you any more about that than the minister did a few moments ago.

So then we turn to the heart of the bill as it's constructed, the two schedules. I've got one page on schedule A and then a little bit more detail on schedule B. Schedule A, again, is the schedule that is the Public Sector Dispute Resolution Act. It is the one that deals with the interest arbitration system in the sectors that do not have the right to strike. Also, as introduced, it would have had some relevance to situations on a one-time basis in right-to-strike sectors if a party opted to have the dispute resolved by the proposed Dispute Resolution Commission.

The concerns about the existing arbitration system are listed again there. I won't repeat them. To deal with these concerns the bill, as it was introduced, would have created the Dispute Resolution Commission. We know that the government has proposed not to do that.

1720

The bill as it's introduced has provisions that would create expedited processes and the ability to use a variety of dispute resolution methods in addition to traditional arbitration. I mentioned that briefly earlier, and again the intended direction is to keep with those sorts of changes where you would have expedited processes in the interest arbitration system as well as an opportunity for some selection of the method of dispute resolution allowing for the possibility of other than just conventional arbitration, but possibly mediation, mediation/arbitration or mediation/final-offer selection.

The idea here is to create deliberately some uncertainty for the parties as they enter into this process to encourage them to negotiate an outcome rather than to rely on arbitration. The idea here is that both parties should face some risk if they enter into this process, if they give up on negotiation, in a sense, and turn to the interest arbitration system for resolution of their collective agreement, that they should face some uncertainty as to how exactly it would be resolved, that they should face even the possibility that final-offer selection might be used.

The thinking here was that there may be a circumstance where the parties are not really making much of an effort to negotiate and the lists of unresolved items are very long, that nobody is moving. The idea here would allow for the possibility of saying to the parties in that situation, "If you don't make some movement, if you don't show there's been some effort to whittle down the list at least, then you may face final-offer selection, and that's something that is pretty risky for both of you."

The idea is to create an incentive for the parties to whittle down the list or to negotiate the full list successfully. So the objective there, and this is something certainly the committee may want to talk about, is to try and create incentives for more negotiated outcomes, less that ends up having to be arbitrated. Then, as I said, there's also the objective of more timely arbitration processes.

Right now some arbitration processes go on for years even to the point where by the time the arbitration award comes down the collective agreement that will be settled by arbitration will have already expired.

The government has indicated it will not propose to establish the Dispute Resolution Commission but it will be looking to change the current arbitration system to address these concerns about timeliness or lack thereof and too much reliance on arbitrated outcomes, and that the criteria that are in the bill now would still apply.

I'll turn then to schedule B. If you'll turn to what is page 5 of the document I handed out, that schedule is titled the Public Sector Labour Relations Transition Act, 1997. The key elements there: The schedule sets out processes for resolving collective bargaining issues arising out of amalgamations and mergers in the public sector; it covers

municipalities, hospitals and non-teachers in school boards, or occasional teachers but not the full-time teachers in school boards; and, if it had been passed as written, would establish a time limited Labour Relations Transition Commission. The government has indicated it is proposing there not be an LRTC but rather the Ontario Labour Relations Board administer these provisions with certain modifications, as I'll come to as I go along.

The purposes of the act are enumerated there: to encourage best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers; to facilitate the establishment of effective and rationalized bargaining unit structures in restructured broader public sector organizations; to facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees following restructuring in the broader public sector and in other specified circumstances; and to foster the prompt resolution of workplace disputes arising from restructuring.

The next page of the handout talks first about part 2 of the schedule, the application of the schedule. That sets out the fact that, as drafted, the schedule, the act, would apply to the municipal sector, including the new city of Toronto, to the education sector but specifically non-teacher employees, and to the hospital sector, and there is a provision, section 10 of schedule B of the bill, that would allow other circumstances to be prescribed by regulation.

The intent there was that if there are other circumstances that are like the ones that have already been specified, where there is substantial restructuring or amalgamation of broader public sector organizations, if there are circumstances like those we've specifically described in the bill, but aren't already covered by the provisions of the bill, there is provision to cover them by regulation.

This part of the bill also specifies a changeover date for each sector, after which parties may begin the process really of adjusting to a new bargaining unit structure potentially. The changeover date in most cases is simply the date an amalgamation has occurred. There are some exceptions, but generally the changeover date that is referred to in the bill is the date an organization has amalgamated. For many organizations, although not all, it will be January 1, 1998.

The next part of the bill talks about the status of the situation as of the changeover date. If it is a January 1 date, let's say, January 1 arrives and you have a new employer now where there used to be several employers, then what happens on that day? The bill says what happens is that essentially what was there carries over for the time being. So the bargaining unit structure that was there on December 31 is the bargaining unit structure that carries over on January 1. The collective agreements that were there on December 31 are the collective agreements that are in place on January 1. That just carries things over as of the moment the new organization is created. It carries things over so the process can now begin of adjusting to the new organization.

If you turn then to page 7 of the handout, part 4 of schedule B of the bill deals with what happens after the changeover date. It sets out avenues that are available to the parties for determining bargaining unit structure and bargaining agent in the new organization. So you have a new, let's say, amalgamated organization. The first thing that needs to be sorted out then in terms of the labour relations issues is what is the bargaining unit structure going to be in this new organization.

For example, if it was an organization that, let's say, had, I don't know, six inside worker units in the various predecessors, then a question will be, will there be six inside worker units in the new amalgamated organization, will there be a smaller number, will there be just one inside worker unit? That sort of question needs to be resolved.

The parties themselves can agree on how to resolve this. In general, the approach in the bill is that if the parties can agree on things, fine. There's one exception to that I'll come to later, and that is there are mandatory provisions around the recognition of non-union service where non-union workers end up in a bargaining unit.

Generally the approach is that if the parties can agree on how to resolve these issues, then they can go ahead and do that. On this first one, if the various agents that are affected and the employer in the new organization can agree that, let's say, in this organization there should be just one inside worker unit, just hypothetically, and all the agents that would be affected by that and the employer agree on that, then fine, that's the way it will be.

If the parties cannot agree, then the way the bill is constructed now they would apply to the Labour Relations Transition Commission to sort that out. In light of the minister's statement, what is being proposed is that the parties would apply to the Labour Relations Board for resolution of that issue.

Once that issue is resolved and you know what the bargaining unit structure is going to be, then of course the next key labour relations issue is who is the agent for this new bargaining unit. Again, you may have had a circumstance where there were different agents for the different predecessor bargaining units to the new organization.

The way the bill is now constructed, representation votes would be required in most cases to determine the agent, but as I mentioned earlier, there was the possibility of thresholds that would say that where a particular agent met a certain threshold of membership, 75% of the people who would be in the new bargaining unit covered by that agent, then as the bill is now constructed they would have automatically got representation rights.

1730

The government is proposing to change the bill so that this would no longer be the case. There would be no automatic thresholds. If the parties could not agree — let me go back a step. There will still be the possibility of the various agents that are affected agreeing that one particular agent should have the representation rights. As I understand it, the intention is that will still be possible.

You might have a circumstance, for example, where all the predecessors are different CUPE locals — that could be the situation — and the bill allows, as constructed, for the possibility that the five CUPE locals that are affected could get together and agree that one of them carries the flag. That still would be possible, as I understand the government's intention with respect to the schedule. But where the agents cannot agree on who should have representation rights, then what is being proposed now is that there would have to be a vote. There would be no thresholds that might intervene, there would have to be a vote.

Furthermore, if there were people who had been in the public sector, had been OPS employees who were affected, who had been transferred into this amalgamated organization, then OPSEU, or if it's another public sector union that's involved, would have an opportunity to be on that ballot.

After the agent is then determined, in most cases through a vote, at that moment the issue arises as to, what's the collective agreement? At that instant in time where we now know what the bargaining unit is and who the bargaining agent is, but what has existed up till now is a set of collective agreements that arose from the different predecessor organizations, and at the instant that the agent has determined what the bill would propose, there remains an amalgam, essentially, that until the parties can agree on replacing that composite agreement, what happens essentially is even though there's one agent now to administer that composite agreement, all the individual agreements are essentially stapled together to be administered by the one agent. You have this concept of the composite agreement.

If the parties do not subsequently agree on replacing it, then that composite agreement, as the bill is now constructed, would last for at most a year. If the parties can't agree or don't want to agree on replacing this notion of the stapled together agreement, that would stay in place for up to a year, but would expire automatically after a year if there had been no prior agreement to replace it.

The next page, page 8, goes through the various mechanisms that are available for replacing the composite agreement. There are a number of options in the bill that are available to the parties. They could agree to adopt one of the pre-existing collective agreements for one of the predecessor organizations.

If, for example, there were five units that became one in a sense, there were five inside worker units and now there's one, and there's one bargaining agent now that's been determined, likely through a vote, if that agent and the employer get together and say, "The simplest thing to do here would be to take one of the pre-existing agreements and just modify it as necessary and use that as the agreement that will apply to the organization as a whole now," they can do that. The bill would allow them to do that as it's now constructed, and my understanding of what's being proposed is that wouldn't change. They would be allowed to do that. Our expectation is that in some instances this may happen.

They could also, if they like, decide to ask the board jointly — what's being proposed is that they would ask the labour relations board, not the Labour Relations Transition Commission — to choose one of the pre-existing agreements and modify it as necessary, or either party could decide it is better to simply renegotiate a new collective agreement for the organization as a whole. They could give notice to bargain a new collective agreement.

If notice to bargain is given, as you know, the bill originally provided, as it was introduced, that either party could then decide at the outset that if they can't negotiate that new agreement successfully, it would be referred to the Dispute Resolution Commission.

The government has announced its plan not to do that, not to have a Dispute Resolution Commission, but rather to allow either party to apply to the OLRB for an order that the first contract following amalgamation or merger of a municipal or school board employer should be arbitrated. But as you've seen, there are specific tests there for access to arbitration in those circumstances. What's being talked about is simply access, as a possibility, to a first contract arbitration through the existing tests that are in the Labour Relations Act.

I'll then turn to page 9 of the handout — seniority. There's a part 6 of schedule B of the bill. It sets out various rules for determination of seniority. The key principles: the length of service of non-union employees of the previous employer will be respected. The bill as it's now constructed, and again my understanding is the intention is to continue with this, would provide that if a non-union employee ends up in a bargaining unit as a result of an amalgamation, their service, as long as it would have been bargaining-unit service in the previous employed situation, would be recognized for seniority purposes in the new collective agreement.

Seniority would be determined on a bargaining-unit-wide basis unless the board, as proposed, considers that inappropriate, and that where different bargaining units are intermingled — if you have employees who were in different bargaining units before now coming together, the bill provides that — there's a presumption in favour of dovetailing; that is, everybody in a sense gets equal treatment of their seniority. You don't get some people going to the top of the list and then people who came from another bargaining unit going to the bottom of the list. There is so-called dovetailing or intertwining of seniority so there's fair recognition for everyone's service. That's in the bill as it was introduced and that would be proposed to continue under the auspices of the board.

Part 7 of the bill deals with the transition commission. I won't talk about that any more because we know the government's announcement that there would not be a transition commission.

If we turn then to the last page of the handout, there are some miscellaneous provisions in schedule B, that this schedule prevails if it's in conflict with any other act. Something I would call people's attention to is the provision that human resources plans negotiated in the hospital sector prevail over the act unless otherwise prescribed. If

the parties have successfully negotiated a human resource plan related to a hospital restructuring, then the bill provides for respecting that plan unless there are compelling reasons to, by reg, provide for some variation.

As the bill is constructed, the Lieutenant Governor in Council would be empowered to make regulations in a number of areas, including the determination of seniority where there is a transfer of employees from the crown to non-amalgamating employers covered by the act. In other words, if crown employees are, in a sense, transferred to, let's say, a municipality, even if that municipality is not amalgamating, is not restructuring, would not be otherwise subject to the bulk of the provisions of schedule B, there is a provision by reg to possibly, by reg, prescribe the determination of seniority in those circumstances, to allow for the possibility of specifying that the service of those crown employees would have to be recognized in the new organization.

Those are the key provisions. I've tried to highlight how they would appear to be affected by the announcements of last week and the minister's remarks earlier today. I'm at your service at this point.

The Chair: Thank you, Mr Saunders. We have ample time for questions. We'll begin with Mr Christopherson.

1740

Mr Christopherson: Mine is just a straight point of order and it's a request of you, the Chair and the committee. Given that the government is prepared to allow overtime for the research staff as well as legal counsel to turn amendments into legalese over the weekend, which I've got to believe is going to cost a small fortune, in my opinion it would be very helpful if we could ensure that there was an expedited translation of the voice Hansard into printed Hansard and attempt to get it in the hands of people who are trying to make submissions over the next few days. It's fine to have the bullet points, but the closest thing to a real explanation, short of the actual amendments, is to take Ron's presentation and allow people to digest that and make comments.

I suspect, Ron, you'll be one of the staff people available to answer questions, assisting the parliamentary assistant.

Mr Saunders: Yes. I won't be here personally at all hours, but I will be on close call and there will be people from my branch here at all times.

Mr Christopherson: And other people from your shop, yes.

Again, Chair, I'm not trying to offer up anything other than trying to help those presenters as much as possible. Given you're already planning and prepared to spend money to make this sham of a process work, could I ask for unanimous agreement that we make that happen? Pat, you wouldn't want to be the only one who doesn't have to work around the clock.

The Chair: If the committee is in agreement with your request, I certainly would be more than happy to request this of Hansard.

Mr Christopherson: There is a financial cost. I suspect they're going to say, "Yes, we might be able to do it

but we're going to need some money to either bring somebody in or do overtime." I would hope that it's understood that if that's what it takes, that's what it takes.

If that is done, Chair, then I would ask Doug if he'd be good enough to contact those who are coming in and try to fax that material to them as well as provide it to us ASAP.

The Chair: I think we can commit to you that we will do our very best to make sure this material is available to presenters and to those who are interested.

Mr Christopherson: Thank you.

Mr Maves: Chair, could members also get a tape of the presentation from Hansard?

The Chair: Again, I think that's possible and we would endeavour to do that as quickly as possible.

Mr Christopherson: Is that in addition to or instead of?

Mr Maves: I think you can do it in addition to. Just get a VHS tape of the presentation.

Mr Christopherson: Because others would want the printed one and they would have to translate it themselves. We wouldn't want to do that to them.

The Chair: Did you have a question, Mr Saunders?

Mr Saunders: No.

The Chair: Mr Patten.

Mr Patten: I have a suggestion that these documents be made available for witnesses when they come, or if possible even before. They won't be dealing with the amendments but at least they'll have some of the written rationale that should guide their responses so they're not swinging in the wind and are responding to things that have been put on the record. I take it this is a public document once it's tabled here at the committee.

Mr Saunders: My understanding is that there would be no objection to having this document made available to anybody at this point.

The Chair: Duly noted. We will endeavour to do that.

Mr Patten: I have one question on schedule B, on the Public Sector and Labour Relations Transition Act. Under your part 4 you say, "Parties may agree on bargaining unit structure or may apply...." Is that a joint decision or can one party unilaterally —

Mr Saunders: One party can apply.

Mr Patten: So that remains the same as —

Mr Saunders: It's sort of implicit that if they can't agree, then it only takes one party not to agree, in a sense. So either party could apply for the determination of bargaining unit structure. My understanding is that that would still be proposed.

Mr Patten: We will know which ones it will most likely be, though.

Mr Saunders: I'll make no comment on that.

Mr Patten: You can't answer that, but of course I could.

Mr Christopherson: We're going to go through a lot of, "I can't answer that; ask the minister." It's not your fault, Ron, but that is what's going to happen in a lot of these circular discussions.

Mr Saunders: It's not obvious to me but I don't want to make any further comment than that.

Mr Patten: Other than some of the comments the minister made in terms of the structure from the transition commission, that is being passed over to the labour board with the existing criteria that were in there before.

Mr Saunders: My understanding is that the proposal is that most of what is in schedule B would be there to be administered by the Ontario Labour Relations Board. There would be modifications, and some I've spoken about. For example, in the voting procedure the thresholds would disappear. OPSEU would have an opportunity to be on the ballot if that was relevant in the circumstances and so on. So there are some modifications that I've talked about. There may be others that people would want to make and the committee would want to propose.

I think one of the areas we've heard another idea about is this composite agreement idea that I talked about. You have this interim step where agreements are in a sense stapled together until you get to the new agreement that is negotiated to deal with the organization as a whole. We've heard some additional thoughts that maybe you don't need to make everything stapled together. For example, maybe you could have seniority even in the interim period determined on the basis of the winning agent's agreement, but have other things stapled together. That kind of thing is certainly there for discussion. Everything is there for discussion, but that's one area where modifications might well be contemplated. But by and large, my understanding is that the proposal would be that most of schedule B would be there but administered by the Ontario Labour Relations Board.

Mr Hoy: My concern is basically for those people who are going to appear before the committee. I think my question has been answered through reading through other questions, but except for the few people in this room, no one has seen this yet, correct, and the other three pages that you began with in the binder? So I'm right that no one has seen this except —

Mr Saunders: This hasn't been distributed prior to today. That's correct.

Mr Hoy: At 7 o'clock, we're going to ask people to come in and comment on these points. I say to the Chair, then, within an hour and 10 minutes we're going to ask people to comment on this document and three other sheets of paper that no one has seen yet.

I suspect that the people in Chatham, Kirkland Lake, Ottawa and Owen Sound would want to have this available at some government office by morning so they could look it over and decide by tomorrow whether they want to be on a teleconference that is going to take place on Thursday. They may choose not to comment; they may choose to have many, many questions. My suggestion, and I look at the parliamentary assistant and the Chair, is that we have this at some government office, well publicized, I would suggest, over radio for those persons in the immediate area of Chatham, Kirkland Lake, Ottawa and Owen Sound so they can comment.

Thus far we haven't even advertised that there would be hearings. This is why we had a discussion yesterday and earlier today on the process here. People are going to

come in, and we want to hear, so we can help the minister refine her unknown amendments to certain documents that we've had presented here, now going into evening, that no one has seen.

I request that by radio advertising the persons in the immediate area of Chatham, Kirkland Lake, Ottawa and Owen Sound be advised that these are available at a provincial government office.

I would like to have some commitment that people are going to come here and know what they are speaking to. I suggest to you that those who are coming in the next hour, unless they were sitting in this room, are going to be pretty vague about things. Do we have a commitment that these people will know what's happening?

Mr Maves: I think Mr Patten has already discussed this a little bit, and you said you would endeavour to distribute it as best you could. Another option: I believe the ministry has an Internet site. Perhaps it could posted on the Internet site and made available. With regard to advertising its availability, maybe the subcommittee should discuss that. Isn't that a matter the subcommittee would discuss, the form of advertising?

1750

The Chair: Generally that is something that would be discussed in the subcommittee. I just have one comment in that we have a guest here who is available for technical briefing. I know Mr Christopherson is on the speaking list and I would not want us to use our time talking about advertising when we have someone here who can answer technical questions. I think we'd be very foolish not to use his time wisely at this point. But we could maybe come back to that at the very end, once we're sure there are no longer any questions of a technical nature for Mr Saunders.

Mr Christopherson, did you have a question for Mr Saunders?

Mr Christopherson: You want to wait and use the time foolishly; to me this whole thing is foolish.

The Chair: No, please don't misunderstand. I meant that we use our time now for the technical briefing —

Mr Christopherson: I was responding to that.

The Chair: — and then we could talk about this at another time when Mr Saunders isn't available.

Mr Christopherson: I understood what you said, and my response still stands. The only thing that's foolish is this whole process. It's just a joke, it truly is; it's just an outrageous joke. I don't live with all this legislation every day so I want to hear what people have to say when they come in so I can determine what questions they're raising that I think I want to continue to pursue. I appreciate the briefing and it's helpful, but this is almost just an expanded version of a down and dirty briefing that we get just before you introduce a bill so that opposition critics can stand up and do a halfway intelligent five-minute response.

Please don't sit there and treat it like this is serious, as if all of this has any real meaning or any real credibility, because it doesn't, Chair. I'll tell you right now, unless somebody can give me a good reason, I don't really have a

lot of interest in sitting on the subcommittee. You, to the parliamentary assistant, rammed through a motion that took all the rights and privileges of the subcommittee out of our hands. Everything we might sit down and negotiate you took control of.

As far as I'm concerned, you wear all of this. You wear this whole joke and this whole sham and you tell me, when you've had your little huddle with whoever it is you huddle, how you're going to advertise when this whole thing wraps up Friday at 5 o'clock. I'm open to be persuaded otherwise, but I'll tell you right now that my first inclination is that you want all the power of the subcommittee and you bloody well took it. You own it; you take responsibility. Let's see you twist in the wind trying to somehow make this process look anything other than the bizarre joke that it is.

Mr Maves: Chair, if Mr Christopherson wants to pursue that radio advertisement, that's fine with me.

Mr Patten: That's not what he said.

The Chair: Let's deal with our guest first. Are there any further questions for Mr Saunders? No. All right. Mr Saunders, on behalf of all members of the committee I would like to thank you for taking the time to come before us for this briefing this afternoon. It is appreciated.

Mr Patten: Let's talk about advertising.

The Chair: Do we want to reconvene a subcommittee meeting?

Mr Patten: No, Mr Christopherson said he's not interested and I feel the same way. There's no point. Every decision we've made, we've been overruled by the committee, so let's talk about it now. We've got a bit of time before 6.

Mr Maves: The government caucus believes that we should put this on the Internet and perhaps advertise it. It would be on the government channel somehow that it would be available. That's probably all that is reasonable to do at this point in time.

The Chair: There is a comment of placing this on the Ministry of Labour Internet site, advertising this on the legislative channel; those are two methods of getting the word out. Any other suggestions?

Mr Christopherson: It makes about as much sense as offering to repaint the Challenger that blew up, for God's sake.

The Chair: Keep in mind that there has been a fair amount of print advertising and media coverage of this bill, and previous to our sitting today there have been inquiries from the public to the clerk's office.

Mr Patten: I think it's too late as well. Radio is probably the quickest. In some of the other regions outside of the Toronto area there certainly should be some degree of radio announcements for people or organizations that would want to respond to this. But I still would like to know what's going on re the teleconferencing. Obviously somebody is working on it or trying to make it work. Who's got the latest word on what's happening?

The Chair: As Chair I can say to you that it was obviously difficult for us to move forward without formal authorization from the committee as a whole. But in the

event that this was to proceed, the clerk's office has been pursuing possibilities of what would be available. There's nothing firm determined at this point in time, although we have possibilities of available locations in Ottawa, in Owen Sound and in Thunder Bay. We're at the end of the working day, so tomorrow morning this will be undertaken in earnest.

Mr Patten: The advertising will have to be explicit outside of Toronto to let people know that they have the option. Obviously they'll need to know pretty soon whether the option of teleconferencing is possible. We only have two days if we're talking about Thursday.

Mr Hoy: Thursday morning.

Mr Patten: Yes, that's right, we're talking about Thursday morning. We don't even have two days to go. We've got one day to notify people. It's obviously too short a time line. I don't think that's going to materialize.

Mr Maves: I think the Chair, as they line up people to speak from each of those communities, can endeavour to get them those materials.

The Chair: I think it is a bit premature to say that it can't be done. I and the clerk's staff will do our very best to make sure this is in place and that it will work for Thursday. It is short notice but we will do our very best to make sure it happens and that it happens well.

If you want to talk about advertising, there probably should be a motion put on the floor to that effect. From a personal perspective, I think some of the criteria we might be looking for in choosing sites would be for instance an area where there is a lot of restructuring occurring and also from the point of view of where do we hear from people who want to make presentations in the lists of names that have already been presented, keeping in mind that if you haven't — and I speak to all three caucuses — already submitted the names of presenters you wish to have appear before the committee, you make sure you present them to us as soon as possible so we can use those names and contact those people.

Mr Patten: Can we expect people to be here at 7 o'clock tonight?

The Chair: At this point in time we do not have anyone booked for 7 o'clock. We have been trying to get people, but not at this point in time. It's unlikely, I would say.

Mr Hoy: I'm not going to belabour the point too much further about advertising, but I have a concern about the public's right to know what this government is thinking about and what they plan for the future of our communities. I've mentioned it before, but rural Ontario does not get the legislative channel. I think we know this from other committee work, and I make it a point in every committee that I'm in, that if they don't have cable TV, they don't receive the parliamentary channel, except perhaps at midnight they get question period only.

The other point is that northern Ontario does not have total capabilities on their phone lines for what you're suggesting here. We still have party lines in much of northern Ontario. They don't have some of the computer capabilities and access modes that we have here in large

and small urban areas. But I'm not going to belabour it much more except to point out that in the future it would be nice if the government understood how the province was made up and what people face outside of the legislative precinct.

I'm attempting to let the people know what is going on in Ontario, but I think the government is more intent on rushing this through. It's obvious. We were supposed to have people here at 7 o'clock and there probably won't be any. If they do show up, they won't know what to talk about. I think the whole thing is just despicable.

The Chair: Keep in mind that from an organizational point of view the last thing anybody in this committee would want me, as Chair, to do is violate the rules of the House by taking it upon myself to book people to come in here and make presentations without the proper authorization of the committee. That didn't occur until — what?— 4:30 this afternoon. From that point on, I know the clerk's office has been working frantically to try and book people and get the committee process under way. I simply say to you that we're doing the very best we can and that we will use all the resources that are available to us and all the lists that are submitted to us in the most productive way we can.

Mr Christopherson: I wouldn't for a second suggest that you've done anything wrong as the Chair. You're going to have to carry your share of the blame for being a

Tory, but in terms of what you could do and couldn't do, certainly I have no qualms about the fact that nobody being here at 7 o'clock is not your fault. But I would ask you, Chair, as you adjourn this committee at 6 o'clock, what exactly are you instructing the committee to do, given that all of us have a lot of things to do? I'm sure you wouldn't want to waste our time or that of the staff. What exactly is the game plan here? Do we just hover around hoping that somebody might drop by, maybe throw a couple of staff people out on the street to see if we can round up some folks who want to come in? They'll know as much about this bill as anybody else at this stage. What's the game plan here?

The Chair: Because we don't have anyone ready to come at 7 o'clock, my feeling is that it would be wise for us to adjourn — we all have a lot of work to do, I'm sure, and constituents to call and legislation to review — and that we reconvene tomorrow morning at 9 o'clock. In the meantime we'll attempt to book as many of the organizations — barring their unavailability — and citizens on the lists who have requested to speak on this bill. We'll attempt to book them as fully as we can tomorrow morning at 9 o'clock.

With no further comment, this committee stands adjourned and we'll reconvene tomorrow morning here at 9 o'clock.

The committee adjourned at 1802.

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Also taking part /Autres participants et participantes

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Ms Frances Lankin (Beaches-Woodbine ND)

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Journal des débats (Hansard)

Mercredi 24 septembre 1997

Standing committee on resources development

Public Sector Transition
Stability Act, 1997

Comité permanent du développement des ressources

Loi de 1997 visant à assurer
la stabilité au cours de la transition
dans le secteur public

Chair: Brenda Elliott
Clerk: Donna Bryce

Présidente : Brenda Elliott
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Wednesday 24 September 1997

Mercredi 24 septembre 1997

*The committee met at 0903 in room 151.*PUBLIC SECTOR TRANSITION
STABILITY ACT, 1997LOI DE 1997
VISANT À ASSURER LA STABILITÉ
AU COURS DE LA TRANSITION
DANS LE SECTEUR PUBLIC

Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act/ Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.

The Chair (Ms Brenda Elliott): Good morning, colleagues. Welcome to the standing committee on resources development. We look forward to our day of receiving deputants commenting on Bill 136, the Public Sector Transition Stability Act.

Mr Richard Patten (Ottawa Centre): Given that we may have some blank spots, usually in other hearings what we've done, if people have called, is that we suggest there may be a chance they get on if people don't show up. We might be able to generally say that and then the clerk has an opportunity to talk to people who may fill in for others who didn't show up at the last minute. Can we abide by that same procedure?

The Chair: Any comments by other members of the committee on that thought?

Mr Bart Maves (Niagara Falls): I think that the procedure for filling blank spots is usually left to the Chair and the clerk to decide. That's fine with me.

The Chair: With your advice, we'll make every effort to fill all the spots available.

CANADIAN FEDERATION OF
INDEPENDENT BUSINESS

The Chair: Colleagues, our first deputants this morning are representatives from the Canadian Federation of

Independent Business. Good morning, and welcome. Please introduce yourselves for Hansard. As you know, you have 30 minutes for your presentation. You may choose to use all that time for presentation or allow time for questions and answers.

Ms Judith Andrew: Good morning. I'm Judith Andrew, the executive director of provincial policy with the Canadian Federation of Independent Business. I'm joined by my colleague, Brien Gray, who is CFIB senior vice-president, legislation and policy. I have provided kits this morning. You will find in your kits a copy of CFIB's statements, as well as a small business primer which has some interesting facts and figures relating to the small business sector, which we represent. The third piece in that kit has a number of CFIB member votes that are pertinent to the subject today and relate directly to our statements.

Thank you very much for the opportunity to appear today. We appreciate the opportunity to represent CFIB's 40,000 small and medium-sized members before this committee on Bill 136. If it pleases the committee I would like to read our statement into the record.

The Ontario government retreat on Bill 136 is very much in keeping with the usual result of negotiations in the public sector. As is often the case, the interests of the bargaining parties — the public sector unions and the employer-government — have been served in this endeavour at the expense of the general public. The Canadian Federation of Independent Business, on behalf of our 40,000 Ontario member independent businesses, is very concerned that the government bowed to the threats of illegal strike action by the public sector unions, and has agreed to remove or change all the provisions that offended them.

We find it astonishing and disheartening that there are still rumblings coming forth from the labour movement about holding the general public to ransom with illegal strike action, despite the unions apparently having got everything they asked for in the legislation. We are not privy to the details of the amendments to be proposed, but from the information which has been reported, we are concerned that the primary objective of Bill 136, to facilitate a timely, fair and orderly transition to improve public services in hospitals, schools and municipalities across Ontario, will be forfeited.

It is crucial that whatever remains of the legislation must do the job of ensuring that the restructuring proceeds

smoothly with no service disruption. Safeguards must be in place to allow both union and non-union employees to be treated evenhandedly in this process. Small business owners understand and support the need for re-engineering our public services in Ontario. Like all Ontarians, they cannot condone leaving our grandchildren the legacy of our recent debt accumulation through deficit spending.

With the province's own-purpose debt having surpassed \$100 billion and the annual deficit still over \$6 billion, there is no question in the owner-manager's mind that we need to find ways of providing better-quality services at less cost to taxpayers. In survey after survey, our small business members have identified total tax burden and government deficit-debt reduction as the primary issues requiring attention.

The onerous burden of the present load of taxes and the prospect of future increases associated with retiring the debt are real obstacles to the small business job creators in the province. As the sector that also shoulders an unfair local tax burden, double on average what residents pay for properties of the same value, small businesses are acutely aware that an overhaul is needed to ensure spending accountability at the local level.

0910

CFIB members have repeatedly voted to rationalize Ontario's public services in order to lower the tax load to a reasonable level. Our September 1993 mandate survey found 73% of CFIB's Ontario members in favour of reducing the system of two-tiered local governments to one tier. This finding was reconfirmed in our 1995 property tax survey, with 78% of respondents in favour. In our February 1993 mandate question, some 72% of Ontario business respondents supported eliminating elected school boards altogether.

CFIB is disappointed that the government's amendments to Bill 136 remove the proposed restrictions on the right to strike and apply the first-contract provisions of the Labour Relations Act. Apparently, this change was made on the clear understanding that the unions would not abuse their strike privileges during the transition period. Accordingly, we call on the public sector unions to fulfil their commitments that the retention of the right to strike will not jeopardize public services or create instability. CFIB also recommends that a public interest test apply during the first-contract negotiations.

To be clear, our small business members stand overwhelmingly against there being a right to strike in the public sector, for some very valid reasons. Unlike the situation in a private sector negotiation, where the pressure of a strike is directly on the bargaining parties, the impact of a strike in the public sector falls mainly on the general public. Given that public services are monopolies by definition, public sector strikes leave taxpayers with no options. Strikes in the public sector also impact on the most vulnerable members of society, those who need the public services.

The elimination of the proposed Disputes Resolution Commission and the return to the current legislative provision governing the appointment of arbitrators is also a

major disappointment. At the very least, interest arbitrators must be required to consider such factors as ability to pay. As recently as September 1995, CFIB members voted strongly, 84%, in favour of replacing the right to strike in the public sector with a system of arbitration of settlements according to criteria which limit the amount of those settlements.

We would be pleased to respond to the committee's questions.

The Chair: Thank you very much. That leaves us with about six minutes per caucus. We'll begin with questioning from the official opposition.

Mr Patten: Good morning, and welcome to these hearings. The first thing I must say is that I have great respect for the small business sector, which, as you point out in your presentation, is really one of the key job creators, if not the chief job creator in our province and in our country. However, I want to pick up on a few points you made, Judith.

You start off by saying, "We are not privy to the details of the amendments to be proposed." Coming from a business background, I'm sure you'll appreciate why we felt it was important, with amendments from the government that drastically change and alter the substance of the bill, almost flip-flop the bill really, that those amendments should be on the table and should be available to witnesses such as you in order to see what has been proposed. Some of the points you make, the government has said they've addressed, but we don't know yet.

You might not share our scepticism that when we finally see the amendments at the end of the day, after the hearings — we only have one hour to respond, if you can imagine that. We wonder why they would wait so long. We suspect it's because they're not as bright and shiny and sparkling as they say they are. We'll see what happens at the end of the day. It makes it difficult, in a sense, for you to respond to this.

A couple of points: You said you agreed with one point, which isn't related to this piece of legislation. Your position supported eliminating elected school boards altogether. Frankly, I think that's effectively what has happened. If you look at the role of the school boards now and the lack of ability to tax, which they had before, whether you agree or disagree, if you look at the powers they have now, they're so confined that it's totally controlled by the provincial government.

If you look at those who are coming forward now to put their name forth to be a trustee, I know in the Ottawa-Carleton area we have a big problem. Only two or three of about 12 or 13 incumbents are coming forward to even stand as a trustee. I would submit to you that it has been so emasculated that it's questionable whether it's effective.

You also say you're disappointed about the right to strike that applies to the first contract. The government has dealt with that, they say. It's interesting to note that they said that was not in the legislation, the right to strike, and now of course they're talking about removing the proposed right to strike to apply to first contracts.

Likewise on the public test: What would you call a fair public test to apply to first contracts?

Ms Andrew: I'd like to address some of the other things you mentioned, but to get to the public interest test, the thrust of our statement is that the collective bargaining system, as it works in the public sector, between the employer-government and the public sector unions, is a very different animal than in the private sector. The public interest is something that has to be foremost in people's minds as they deal with this.

This is not a question of a dispute in a private company, where if people go on strike both the employer and the workers are feeling it and it pushes them towards a resolution. In the public sector, the impact is on the parties outside. Vulnerable members of society, certainly small business as job creators in the general public, also feel these issues. A public interest test — we haven't worked out wording — needs to be a very strong element in terms of how the government sets out the rules around solving disputes in labour relations in the public sector.

Just quickly on some of the other things you mentioned, you indicated that you thought the elected school boards were eliminated altogether. If that is the case, and I'm not certain it is —

Mr Patten: No, not eliminated all together. I'm just saying reduced and —

Ms Andrew: Well, that they're emasculated in terms of de facto not being able to do things. That would be in line with our members' views. Our members felt they should be eliminated.

Mr Patten: Too bad.

Ms Andrew: On the issue of temporary suspension of the right to strike, as you can see, our members would have that done on more than a temporary basis. They think there should be other ways of solving labour relations issues in the public sector, other than holding the public to ransom.

Mr Patten: Just a little comment on the educational part: I find it somewhat strange, because I know most, if not all, of your members are highly entrepreneurial and very highly value local participation and a degree of local control. I would resubmit to you that this goes completely the other way in terms of big government, centralization of your educational system, with a reduction in participation. Although the government says it will have these parent councils, the parent councils are saying: "We don't want to be responsible for some of these things. We don't mind helping out in the school and providing advice and this sort of thing."

I find it kind of counter: The small business sector especially, I think, has an appreciation of the micro-industries and the role they play in their local community and this kind of thing.

Anyway, my last question is on the Dispute Resolution Commission. You said, "The return to the current legislative provision governing the appointment of arbitrators is also a major disappointment." I'd like to ask you why. The Dispute Resolution Commission really was set up to deal with those in essential services. You know they didn't

have a right to strike, number one. Second, we're talking about police, firefighters, nurses, workers in hospitals, this kind of thing. The only mechanism they had for any kind of participation in the process was that if the process in collective bargaining reached the point where it required arbitration, the employer and the employee would mutually agree on the selection of an arbitrator. Big deal. That's all they've got. It's the only thing they had. Their noses were out of joint, believe me, when they saw — how many times do you see firefighters or police going on strike? They don't want to. They usually carry out and assume their responsibility. Their history I think would show that. So I would be curious why you say your association would be disappointed with that.

0920

Ms Andrew: I think it's been fairly clear that over the years the community of arbitrators is a group of people who are thinking not only of the current arbitration they have in hand, but the one that might come next. There wasn't very much consideration given by those people to the impact on taxpayers, of which small businesses are a big part. To segue to the other comment you made, that you're surprised our members wouldn't take a different position because they're community-minded people, indeed they are community-minded people but the issue, in terms of local government, is they've had the short end of the stick on the tax front.

You talk about local accountability. Small businesses certainly don't carry the votes residents carry, which is why you get local governments deciding to increase their spending and offload the cost of that on to the local business taxpayer in what is a very shortsighted move that will result in those small businesses not being able to create the jobs for the community people that they might have otherwise been able to do if they weren't shouldering such an unfair burden of local taxes. I would say our members are probably disillusioned by their attempts in the past to have local accountability and frankly want some rules around how local governments tax and spend. That's by way of explanation.

Mr David Christopherson (Hamilton Centre): You state in the third paragraph of your presentation that you're "not privy to the details of the amendments to be proposed." As we all know, Bill 136 is going to be a completely different bill once the amendments are concluded. Then you go on to state, "It is critical that whatever remains..." and go on to talk about things that you would like to have seen. As an organization that by and large has been relatively supportive of this government's agenda, would you not agree that we would have a better process here and that you would be making a more significant and helpful submission today if indeed we had the amendments in front of us?

Ms Andrew: I certainly think it would be helpful to have the amendments, and that reflects also on Mr Patten's question. It's very hard to respond to something you haven't seen. I keep hearing on the radio that the members of the labour movement have been in for private briefings at the Ministry of Labour. Maybe they have

some more details than some of the rest of us, but I would agree with you, yes.

Mr Christopherson: No, in my understanding, and I would ask the parliamentary assistant to correct me if I'm wrong, the briefings the labour movement had earlier yesterday were a reflection of the technical briefing we received last night, so everything they know is on the public record as of last evening, but that doesn't help much when you've only got overnight to consider it.

I would ask you too, if the government decided, if suddenly they woke up and realized this process wasn't serving them or the public well at all, would you be prepared to come back again and make further submissions based on those amendments? If you were given the opportunity, if the government tabled the amendments, even though you've made your submission here today if those amendments were made public, would you and your organization be prepared to come back and comment further on the amendments?

Ms Andrew: I guess it depends on what we would read in the amendments. What you have here of course is the extent of our member votes in the area, so we wouldn't be able to contribute any more on that front. We have obviously some considerable polling data that would actually have us head in quite a different direction than what is reported to be in these amendments.

Mr Christopherson: Thank you. I want to comment on your focus on the fact that you "call on the public sector unions to fulfil their commitments that the retention of the right to strike will not jeopardize public services or create instability." But given that to the best of our knowledge there's never been a strike in the country related to restructuring or reorganization, which is what the focus of Bill 136 is supposed to be, and second, you don't make any mention of the responsibility employers have in these types of negotiations also to avoid any kind of job action, is it not fair to say that pressure is on both parties, and not just the union?

Ms Andrew: Yes, we think everyone should work to avoid strikes, but on the other hand, the interests of taxpayers have to be considered, and it's not sufficient to just look at the one side of it.

Mr Christopherson: That was the point I was making. This presentation basically talks about the one side of it. I was just asking you to confirm that there is equal pressure on both parties.

Ms Andrew: The reason that statement is there is because there were quite well publicized threats of illegal strike action all through the discussions leading up to the tabling of the bill and so forth, war type councils and all this kind of rhetoric that was coming forth. That's why we're saying it's very important for there not to be strike action. We certainly agree there have to be safeguards right across the board to make sure that the restructuring proceeds smoothly and that union and non-union employees are treated fairly in this process.

Mr Christopherson: There is a distinction, however, between the political action the labour movement felt it had to generate regarding Bill 136's passage and the

implementation and effect of what happens after Bill 136 is the rules of the game. I'm assuming you were referring to what happens after Bill 136, because you talk about the unions' commitment to act responsibly, which as I've said, they've always done, because there's never been a strike as a result of restructuring. I only wanted to ensure that you felt the responsibility to bargain fairly and avoid strikes if possible is equally placed on the employer as it is on the unions.

Ms Andrew: If you're telling me that the threats of strike action, very public ones that were all over the media, were bluffs and that there isn't any intention of there being a strike, I'm glad to hear that.

Mr Christopherson: No, I think you're confused. I don't think they were bluffs for one second. "Accordingly" — this is your comment — "we call on the public sector unions to fulfil their commitments that the retention of the right to strike...." So the reference is what happens after Bill 136 is in place, and that's fair comment. I was only trying to elicit that it's also fair comment to say that the employers in those negotiations, post-passage of any amended Bill 136, is equally important.

Ms Andrew: Yes, and we said there have to be safeguards to make sure that employees of either union or non-union affiliation are treated fairly.

Mr Christopherson: I want to point out also that you state that the "pressure of a strike is directly on the bargaining parties" in terms of the private sector, and I would point out that the lay of the land has changed under Harris's Ontario. Scabs are now legal. We've got strikes such as the one at S.A. Armstrong that's been going on for 15 months now that otherwise wouldn't be dragging on this long because they can use scabs.

Therefore, the pressure at the bargaining table under Mike Harris has changed dramatically. It's no longer equal. The employer has the upper hand. I would point out that the calls for government intervention and protection of services is not just in the public sector. If we take a look at what happened with the high profile UPS strike in the United States, it didn't take too long and after a few days there were calls for President Clinton to step in and provide legislation that forced everybody back to work.

Ms Andrew: The rules in the labour relations forum, as I understand them, don't prevent the employees, if they're on strike, from going and finding alternative sources of income, and at the same time they are not designed to force the employer to be shut down, so on this issue about replacement workers, I think if you were to ban replacement workers, then there should also be a ban on employees going and working elsewhere for the duration of the strike. As it is now, both parties suffer. The employer is not, obviously, able to operate in the same fashion as before.

0930

Mr Christopherson: Just to take that thought for a second, should the board of directors and all the managers lose all their salaries too?

The Chair: Sorry, Mr Christopherson, we have to move to the government caucus now.

Mr Maves: Thank you very much for your presentation. It was somewhat stinging at the beginning that public sector unions and employees of the government have got what they wanted and the general public has been hurt by this. I would disagree because I think that the principles of Bill 136 still remain, those being providing the necessary tools for restructuring; ensuring a smooth transition and dealing fairly with union and non-union employees because the provisions are still there to deal fairly with non-union employees; minimization of service disruption, which you just briefly spoke to Mr Christopherson about; and better-quality service at less cost to the taxpayer, which is the overall goal of the government.

I think those principles are still preserved in Bill 136, although you rightly point out that we did give in to many of labour's key demands, the LRTC being replaced by the OLRB, but the OLRB gets the new processes which were being made available to the LRTC to expedite these transitions.

The right to strike wasn't completely taken away, as has been painted. There were many steps of bargaining that would have had to occur before someone could successfully refer a dispute to the DRC, but that, as has been asked for, has been removed. The elimination of the DRC and a return to the existing system of arbitration is another demand we've acceded to.

But I still think that what's there is going to allow us to minimize service disruption, which is key, with the economy going as well as it is right now, and it provides the necessary tools for restructuring.

You talked about labour and whether or not we'd have disruptions of services. I would say that, yes, some of the comments made about promises of no disruption in services I think were important. Mr Ryan on several occasions, for instance, has said, "If the real goal of Bill 136 is to ensure smooth transition with no labour disruption, I myself, our union can guarantee that." On September 9 he said, "We are prepared to find a way to guarantee that there will be no disruption in services when it comes to the transition period." There are several other places where he's made similar statements, and I think Mr Wilson has made similar comments to Ms Witmer. That's very important, because in acceding to some of the things they asked for, we took, I think, those things at face value and into account, and I'm confident there shouldn't be disruption of services.

I would like to ask you, you say at the bottom of your presentation, "At the very least, interest arbitrators must be required to consider such factors as ability to pay." That is still the case and will still be the case under this legislation. I wondered why you put that in there, because I'm sure you would know that still is the case.

Ms Andrew: We certainly haven't seen the amendments. We wanted to underscore how important that is and draw to your attention the September 1990 vote from our post-election issues survey in which our members voted in favour of arbitrated settlements having that kind of limitation. There's a concern, obviously, that arbitrators haven't been fettered by that kind of thing in the past.

Mr Steve Gilchrist (Scarborough East): Good morning, good to see you again, Ms Andrew. I'm sure, as we heard from Mr Christopherson in his comments to you, we're going to hear with every single presentation throughout these hearings the suggestion that somehow it's inappropriate to not have amendments before public hearings. Having had the opportunity to chair about nine bills and act as parliamentary assistant lead in four or five others, it's my recollection that there's never been a bill where the amendments are drafted before the public hearings. In fact, it would seem somewhat insulting to the people coming to make presentations to anticipate or to pre-empt their thoughts.

While it is quite common to make commitments in the course of hearings — just to give you a very brief example, in the middle of the Tenant Protection Act, we had heard a number of submissions from both the landlords and the tenants in mobile home parks. We indicated half-way through the hearings that we would be making certain changes. No one there said, "I have to see the actual wording before I can make a comment."

I would ask you, in light of the fact that the minister has been unequivocal in terms of the changes she's going to make, and they've been made on the record, on TV, in this forum here — we have said definitively that certain sections of the bill are removed completely. Given that that's on the record, but also given that over these next few days we're going to hear from a lot of people who have some specific suggestions, would you not agree that it would be totally inappropriate for us to anticipate your comments here today and others' and to have prepared specific wording on a number of sections, or would it be better to respond to that having listened to the people who are taking the time to come before us?

Ms Andrew: I would certainly agree that any submissions that come before this committee that are valid and so forth could eventually find their way into amendments. That's not at issue. I guess it's because this bill has been so hotly debated in the public and the substance of the amendments the minister is apparently going to reveal is so substantive, relative to the bill, that it would have been nice to have seen those beforehand. Presuming it fits with exactly what's been said, our comments will stand.

Mr Gilchrist: I appreciate that, but I guess in the absence of Mr Christopherson or anyone else offering a specific suggestion that there's ever been a bill brought before this Legislature or any hearing where the amendments were drafted first — I don't think anyone insulted his ministers and himself in the course of hearings. If they made a commitment, I'm sure they honoured it at the end of those hearings.

Mr Christopherson: Nobody's ever gutted a bill like that before either.

The Chair: Order.

Mr Gilchrist: Are you aware, in all the times you've come before the Legislature and made presentations here, of any time there were amendments drafted before you made your presentation?

Ms Andrew: Probably not, but this seems to be a different issue in terms of this being a very substantive change to the bill, and we don't agree with the changes. In fact our members would have had Bill 136 be much tougher in the area of strikes and so forth, and the announcement is to go the other way, so we're very disappointed and obviously I convey that to the committee.

The Chair: Thank you very much for taking the time to come to the committee this morning. We appreciate your advice.

0940

EQUAL PAY COALITION

ONTARIO FEDERATION OF LABOUR

The Chair: I now call upon representatives from the Equal Pay Coalition. Good morning, and welcome.

Ms Mary Cornish: Good morning. My name is Mary Cornish. I'm a spokesperson for the Equal Pay Coalition. Heather McGregor is the executive director of the YWCA of Metropolitan Toronto. Ethel Lavalley is the secretary-treasurer of the Ontario Federation of Labour.

This is how we propose to divide up the 30 minutes: I will set out the presentation for 15 minutes, then Ms McGregor and Ms Lavalley will speak for about three minutes each and the balance of the time will be for questions. As you can see the brief is a joint brief of the Equal Pay Coalition and the Ontario Federation of Labour. We have listed at the back all the organizations that are part of the Equal Pay Coalition. It's a broad-based group that's been in existence since the mid-1970s and so has been involved in really all aspects of the struggle for pay equity and then for the implementation of pay equity in Ontario. We come today to address specifically the Pay Equity Act amendments which form part of Bill 136.

We understand from the ministerial statement yesterday that the government has indicated that its decision with respect to the pay equity amendments is linked to its decision with respect to the decision of Mr Justice O'Leary in the SEIU Local 204 charter challenge decision. As I understand it, unlike the prior collective bargaining amendments, we do not have any current position from the government as to whether or not it is making any change now with respect to those amendments, so we are going to address you with respect to the amendments as they stand.

It's our position that there are essentially three separate amendments, and I'll outline them briefly and then I'll go into them in a little more detail. The first amendment is to remove what we've referred to as the "no-reduction protection" that was brought into the Pay Equity Act in 1993. It was brought in to protect women during sale-of-business transactions where their positions were moved to a new employer.

In 1993 the government passed an amendment that when a woman's job was moved to a new employer, she was not to lose her pay equity adjustment in the process. The plan she had would bind the new employer. It was a fairly simple provision and was specifically enacted in

order to protect women in restructurings. This, by Bill 136, has been changed to remove that protection.

The second aspect of Bill 136 we want to address is the removal of the proactive employer obligations with respect to public sector employers. The first amendment I described dealing with removal of the no-reduction protection actually applies, by Bill 136, to both public and private sector employers. The second amendment I'm about to describe only applies to public sector employers. That amendment provides that if you do not have a plan in place by June 4, 1997, in the public sector, you as an employer are freed from any obligations to your employees even though the act as it stands would say that you should have paid up adjustments to your employees back to January 1, 1990, for employers who could use the job-to-job method and 1993-94 for proportional and pay equity adjustments. If employers had managed to evade their obligations up to June 4, 1997, Bill 136 says that they are freed of this obligation. That's the second aspect of the bill that we are asking you to reconsider.

The third aspect of the bill relates to protection for home day care workers. Current decisions under the Pay Equity Act had determined that home day care providers, many of whom are employed by municipalities and other public sector agencies, have been found to be employees of the municipalities or agencies by Pay Equity Commission review officer decisions. Just at the time the matter was being dealt with by the Pay Equity Hearings Tribunal, the government introduced legislation to deem these employees not to be employees, in other words, take away their right to pay equity protection under the Pay Equity Act. That's the third aspect of Bill 136 that we wish to address.

In looking at these three aspects, we asked this committee to consider that in looking at pay equity, and I think this is one of the fundamental lessons to be learned from the charter challenge decision, legislatures, in dealing with pay equity, have a special obligation to ensure that the laws that are passed don't increase the inequality that women face and don't take away the protections they have had to claim pay equity. This is particularly true when you are dealing with women in public sectors restructuring.

You'll note in the brief we've put forward that on the bottom of page 4 and page 5 we talk about the fact that there are international labour standards and commitments that particularly draw attention to the fact that countries internationally are concerned that public sector restructurings are having a very negative impact on the equality women were starting to achieve, and that in fiscal restraints there is a tendency for governments to say, "We're going to take back that money", or "We're going to take back that protection." In other words, that equality is only for what some may say are the good times and equality is not a human right.

The UN and others have said that this cannot be an expendable right; it cannot be one that you decide is inconvenient at a certain time when you are interested in downloading public services, privatizing public services. For example, I understand that the amendment with re-

spect to the home day care providers was wanted by the municipalities because they didn't want to have, as they were merged, that responsibility to these home day care providers. It's simple to call up the Ministry of Labour and ask them for an amendment that would get rid of this problem for you. Even though the Pay Equity Hearings Tribunal is now dealing with these decisions, you intervene right in the middle of the process and bring in a section which says they're no longer employees.

Again, looking at some of the lessons we've learned from the charter challenge decision, they talk about the fact that the government acted without proper study and that those kinds of studies are particularly appropriate when you're attempting to impact on equality rights. Here the only information the government had was that its expert body, the Pay Equity Commission, had determined these people were employees. However, it was seen to have been decided that was inconvenient, that was too expensive, so they weren't going to do it.

You can see why the government is now reconsidering that amendment. In our view, that kind of action, and in the face of its own expert advice from the commission, could clearly not be sustained. A way in which this has been done is if you look at the issues with respect to removing the proactive obligations of employers with respect to people who don't have plans as of June 4, 1997.

As I understand it, employers wanted to say: "We don't want to have any obligations. We want to be freed of these obligations when we transfer." One of the ways to do this is to say, "Okay, if there's no plan, you're freed of it." It seems to me logic would tell you that if you were proceeding with this issue on the basis of attempting to protect the women in the transaction, what you would be saying to those employers is, "You actually can't transfer until you assure us that you have complied with the law." That really should be the approach, not what we see here, the opposite approach, which is, "If you don't have a plan even though you have an obligation to have a plan, we'll free you of the obligation."

I think it's a fundamentally different approach, because in our view the government's actions since it came to power have indicated a disrespect for the approach of pay equity. They have taken a number of measures, and certainly the charter decision has made it quite clear that its proxy law was flawed; the basis for the law the court has found was completely unacceptable. It then I think decided, when it got to its restructuring bill, "Let's throw in some pay equity amendments and get these employers fixed up so they don't have these inconvenient obligations to these women." Clearly, that's just not something that they're entitled to do.

0950

Let us look at the sale-of-business provisions. We're going to have merging entities as you go through the process that's set out and that we're dealing with in terms of Bill 136. The Pay Equity Act in the Legislature had already addressed itself to this issue back in 1993. It decided in 1993 that what was appropriate was to ensure that women's adjustments were not taken away. I think

particularly the reason then was, just as we can see what the government is doing here and what employers would like the government to do, that when you have an opportunity to restructure, you try and win back some of the money you were forced to pay out before.

People are sceptical of what employers will do while they're restructuring and that's why this protection thing: You can't use the pay equity adjustment to finance this restructuring, that it is off limits. That's what we're saying here today, that the process of looking to women's pay equity adjustments to finance public sector restructuring is off limits. The government went to court, it tried to use this reason before and it was unsuccessful. You can't just dip into women's pockets in order to finance restructuring.

With respect to the issues as well, I would point out that in dealing with the sale-of-business provisions the Pay Equity Commission had asked for strengthened provisions. The current act only provided that pay equity plans would bind the new employer, whereas the very people the government is trying to release from liability, those people who managed to evade the law until June 4, because they don't have a plan in place, actually don't have a plan transferring to the new employer. So they'd asked for an amendment to make sure the liability shifted even if there wasn't a plan, whereas the government comes in and says: "We'll just get rid of the liability altogether and everything is tidy. You don't need to worry about these women."

Looked at in that light, we ask you to come at this issue from a different perspective. Come at it from the perspective that we need a law that protects women on restructuring. We think the current law, in its place, does that to the extent that it's necessary at this time. We're asking the government to withdraw the amendments, and we say they violate section 15 of the charter. We're asking this legislative committee to ensure that the amendments are not passed.

You've probably heard some discussion about what is the role of the charter and the role of the Legislature. Some people feel at times that courts are usurping the Legislature's role, and some of you may be considering that as you're trying to deal with these amendments. In relation to that, perhaps it might be useful to look at the charter. The charter was passed by all the legislatures; In other words, citizens elected legislatures that passed the charter. They decided that the charter was a special law which would bind the legislators. In other words, it gave to the courts this special power that when laws stepped over a line, they could be struck down.

That power has not been used very often by courts. There's a section in the charter, section 1, which provides that even if there is discrimination in a law, it could be saved if it was a reasonable limit in a free and democratic society. For example, mandatory retirement was found to be discriminatory but was saved under section 1 as a "reasonable limit." The court case decided that the government didn't meet the test for section 1 because they found that the whole purpose of the proxy law was flawed and was a false objective. The government had argued that

it restored true pay equity principles to get rid of proxy and it was not able to establish that in court, so it couldn't meet the test it was to meet.

But there are tests, and it's not simple to win charter cases. It doesn't happen that often. There is a particular problem when you attempt to take away and interfere with equality rights particularly of women, and particularly in the case of women who'd had identified discrimination. That's also here, when you look at these women who'd had a pay equity plan, they had their adjustment identified, and this law now says that if you transfer the business, the protection is taken away that you can't reduce it.

The charter case also talked about the fact that there should not be discrimination among the groups of women within the public sector. The women who do not have a pay equity plan by June 4 are most likely to be the most disadvantaged because they likely have employers who are not organized, who have managed to evade the law. They're the ones who are most at risk, and then the government comes in and says, "We're going to take it away." It really offends some of the basic principles and it reaches the stage at which the courts say we have to intervene.

When you are deciding your issues this week, you need to take into account the same kinds of things that a court would, because that's really the law. You have to sort out whether what you're doing in terms of this law violates the charter. If it does, you're not allowed to pass it. We shouldn't just leave it to courts. You should be determining yourselves, because you're bound by the charter, whether or not these steps in this act are necessary, and if they violate women's equality rights, are they really necessary? We say that they're not. Heather will now add a few supplementary comments.

Ms Heather McGregor: I'm here as a member of the Equal Pay Coalition and as the executive director of the YWCA of Metropolitan Toronto. I know that a number of you are familiar with the programs we have in Toronto, and many of you may be familiar with programs the YWCA has in other parts of Ontario. In Toronto there's been a YWCA for 124 years.

We have seen over those 124 years very clearly the effects of discrimination in wages for women. We have seen them in the past and we see them now. Many of our programs work with the most vulnerable women Mary was referring to who do not have in their workplaces pay equity plans posted at the moment. This legislation would reward the employer who hasn't posted this plan. In fact, a systemic remedy is needed to obtain fair wages for women and it was linked to Ontario's proactive pay equity model.

A return now to a complaints-based process would support the old environment of putting the onus upon the most vulnerable to come forward to make a complaint. This is very difficult for women who are isolated in their workplace, who are not unionized, who fear reprisal from their employer because they're coming forward, who don't know what their co-workers who are men make. The YWCA has been a member of this coalition for many years because through our work we see many women

working hard to achieve economic independence who would be assisted in achieving economic independence by strong pay equity legislation.

At the YWCA we see many women making positive changes in their lives every day. We've seen many who have been challenged by poverty, by the effects of domestic violence and by unemployment. I urge you to support the women of Ontario by ensuring strong protection for the principle of pay equity. Thank you.

Ms Ethel Lavalley: As Ms Cornish has already said, I'm with the Ontario Federation of Labour. The Ontario Federation of Labour will be doing the presentation on Friday, so my comments today are based on the pay equity part of this. As has already been stated, this bill in my view is another gift to bad employers, with women paying the cost. I've never heard why we should reward bad employers. Why do we set up these practices and then reward those that don't pay any attention to it? It just doesn't make any sense.

As has already been stated, Bill 136 is not needed. As David Christopherson has said, in the history of mergers and amalgamations we know of no strikes; we do not know of any places or times that the public service workers have held up. What we're saying to you is that the way to do this is to sit down and bargain.

The Pay Equity Act already allows methods of addressing restructuring. You've already got in place the tools to do it. I know the Association of Municipalities of Ontario has a great word, that they needed all these tools, the flexibility, to do the work. At this point in time, on the pay equity, you don't need the tools because you already have it in the act.

1000

I want to emphasize my comments from a woman's perspective and from an aboriginal perspective. Many of these people who will be hit by this, if you continue to do this, are aboriginal people, people like myself, many of whom don't have the benefit of a union. It becomes a double whammy for these people. Many women, and I'm sure you will agree, who are making a decent wage in the province don't go away on trips, don't go fishing, don't go hunting etc. The money they make is put back into their communities. They go out and buy clothes and groceries, they support their communities. When you're looking at all this, it's a very important aspect to remember.

As already has been indicated — this is already in the charter — the job for you that you really have to look at is, why would we put this as part of Bill 136 anyway? What you need to do is remove it and let it be dealt with under the Pay Equity Act.

The Chair: Thank you very much. We have about six minutes remaining for questions; two minutes per caucus. We'll begin with Mr Christopherson from the NDP.

Mr Christopherson: Thank you very much for your presentation. I'll state up front that I was very proud to be part of a government that brought the provisions in under the Pay Equity Act, that took a giant leap forward — certainly not the entire job but a giant leap forward — in the equality of women in our society. It's reprehensible

that this government's intent is to go after the most vulnerable, in many cases the lowest paid in our society, to in my opinion give another gift to their friends on their side of the political spectrum.

We know already that women are disproportionately hit by this government's agenda, whether it's directly as a result of the attack on social service assistance, because most of those families — we know that 50% of the people who are on social assistance are kids — are headed up by women, single parents. They're also the ones who are aware of what's going on in communities and how that affects services and what that means for their families and their immediate neighbourhoods; the same with health.

All of that is supported by the fact that all the polling shows there's a major gap in support of this government when you look at the gender issue in terms of: Of those who are supporting the government, how many are males and how many are female? I think it's quite clear this government is not only not interested in advancing the issue of equality, but it's quite prepared to take what turn out to be illegal acts to attack rights women have already fought for.

I think it's interesting, and I want to underscore it, that their last action under Bill 26 was found to be unconstitutional; therefore, it's illegal. It violated the charter. I've been in government and I know that they were advised by their legal people that there was a good possibility that was going to happen. They would've got that advice. They went straight ahead anyway and hoped either you wouldn't take it to the courts, or that if you did, you'd lose on some kind of technicality.

I want to read just a couple of sentences in your presentation about the constitutional challenge you were successful at. Your presentation states:

"The court found that the government argument" — this is the argument the government used to defend its actions in attacking women's rights — "that the proxy method was a flawed tool to identify gender-based wage equity was 'false.'" Those are the court's words. "Instead, the court accepted the evidence of the union's renowned expert witness in pay equity," who "found that the 'proxy method was and is an appropriate pay equity tool in keeping with the intent of the Pay Equity Act to relieve women, including those working in female-segregated workplaces in the broader public sector, from systemic gender-based wage discrimination.'"

I remember the debate at the time this hit the floor when we said: "The reason we're doing this is because there is systemic discrimination, and if you don't have laws protecting it, women are never going to get the rights they're entitled to." Here you are four years later having to go to court under a constitutional challenge to defend a fight that should have been over for you.

The Chair: Thank you.

Mr Christopherson: What?

The Chair: Sorry, just two minutes per caucus.

Mr Christopherson: I thought you said six.

The Chair: No, just two; we're almost out of time.

Mr Maves: One of the things you said was that the government should tell municipalities they shouldn't transfer until they've complied with the law. My own question is that if they've complied with the law and they transfer, once they transfer, should they be subject to a new liability above and beyond the one they've already complied with?

Ms Cornish: If there is a pay equity plan in place, what it would mean is that an employer who didn't have a pay equity plan — the person, let's say, as of June 4 — should've been directed to get one in place between then and January 1 and make all the payments. That's the first thing. Instead of relieving them of liability, you would've said, "You make sure you have one between now and January 1." Then once you transfer, you've transferred with the women having all their liability paid up to date. The plan then moves to the new employer. That's what I'm saying would've been an approach. The law already required that employer to be doing that. But the government's approach instead was to say, "If you don't have it as of June 4, you don't have that liability."

Mr Maves: But in situations where a municipality has complied and they transfer into another municipality, should they have a new obligation to comply above and beyond the compliance they've already achieved?

Ms Cornish: There's a continuing obligation to maintain the plan they have. That's what they would have, their obligation to maintain the plan they already have.

Mr Maves: Right. And in a merger, should they have a new obligation above and beyond the one they've already —

Ms Cornish: No, we're saying they should continue with the obligation they have. As women have received a pay equity adjustment, they shouldn't have it lowered by the new employer. The new employer can't come in and say, "You got this much but we don't think that's the right amount; we want to lower it to this amount."

Mr Maves: You would hold that the reverse is true, that in a new merged municipality they couldn't say, "Now the rules have changed and the plan has to be increased because of other employees in the new unit."

Ms Cornish: It really depends, because one of the things we're finding now is that in restructuring, what women are doing is substantially increasing in value because what's happening is women are now doing far more in their jobs. As more and more people are laid off, the people who are left working are actually left in increasingly more complex jobs. One of the issues would be to make sure that the original plan in terms of its valuation is actually still accurate; in other words, if the women aren't now doing a different job. That is one of the issues that will come into play. Where you have precisely the same job, then no, there wouldn't be a reason to change.

Mr Patten: Thank you very much for your presentation; I thought it was excellent. You obviously have the experience, background and chutzpah to exercise your position.

First of all, I agree totally with your analysis. When you say this is a gift for poor employers, it's a question of

values really. It's whether you're so dedicated to money or providing outs for local municipalities or whatever, who are being squeezed by the provincial government, that you'll look for any particular avenue, even if it denies human rights, even if it puts down better than 50% of our population, namely, women.

I would like to ask you: We have essentially one hour on Monday morning to put forward our amendments knowing what the government is going to propose. You heard what the minister said yesterday, I hope. If you didn't, I'm sure you'll be disappointed. She essentially said that she will see what'll happen in light of the ruling. That's all she said.

Ms Cornish: Right.

Mr Patten: You probably know better than anybody else, because of your legal expertise — I'm not a lawyer; my staff aren't either. If you literally provide the amendments you'd like to see in that legislation, I will be happy to move those in this committee when we come to clause-by-clause.

Ms Cornish: Our position is quite simple: You just withdraw the amendments. There isn't a need to amend them. The current Pay Equity Act provisions will deal with the restructuring, so all you need to do is delete the sections that are there.

The Chair: Thank you very much for coming before the committee. We appreciate your advice this morning.

Colleagues, we're checking to see if our next presenter, the Ontario Hospital Association, is available. We'll take a five-minute recess until that's confirmed, please.

The committee recessed from 1010 to 1020.

ONTARIO HOSPITAL ASSOCIATION

The Chair: We are now pleased to welcome representatives from the Ontario Hospital Association.

Mr David MacKinnon: My name is David MacKinnon. I am the president of the Ontario Hospital Association. I am joined this morning by Gail Paech, the president of the Toronto East General and Orthopaedic Hospital; by Murray McKenzie, the president of the North York General Hospital; and by my colleague Brian Siegner, who is vice-president of hospital employee relations services for the Ontario Hospital Association. As members may know, most of the central bargaining for the hospital industry is done through the employee relations services of the OHA.

We very much welcome the opportunity to speak to you this morning on Bill 136, the Public Sector Transition Stability Act, which addresses issues of absolutely critical concern to us. As I'm sure all members of the committee know, hospitals are in a period of intense and very rapid restructuring, and that is occurring at a time of massive budget reductions.

To date the Health Services Restructuring Commission has directed 25 hospitals across the province to close. Communities in Thunder Bay, Sudbury, Sarnia, Pembroke, London, Ottawa and Toronto have received final decisions from the commission. In Metropolitan Toronto alone, 11 of 44 public hospitals are slated for closure. This

is one of the largest public sector restructuring activities ever undertaken in Canada, and in the health sector one of the largest on the continent. It's been undertaken in time frames that are very much more rapid than most other exercises of similar scale have involved.

The restructuring, however, is only part of the problem. Hospitals and others have had their base operating budgets reduced by 5% in 1996-97 and by 6% in 1997-98. A further 7% that was scheduled for removal in 1998-99 was deferred by the May provincial budget.

These budget and restructuring changes require a very significant workplace realignment. Ms Paech and Mr McKenzie will describe some of the details of that in a few minutes. That realignment of course involves our most important asset in hospitals: people. Thousands of staff, both union and non-union, will see significant changes in their jobs. Some will move to different sites, others will lose their positions. There is a level of change that is quite extraordinary across the board for all the people connected with hospitals in Ontario.

As these shifts in the system occur, it is vitally important that human resource decisions are made within tight time frames, that they are made fairly — fairness is essential — and that both union and non-union staff are treated equitably. More importantly, the change must take place in a way that minimizes negative impact on patient care, a critically important consideration. Again, Ms Paech and Mr McKenzie can illustrate very clearly for you some of the issues relating to patient care that will result without the legislative provisions that Bill 136 provides.

As it stands, the current labour relations framework is too cumbersome and time-consuming to accommodate the changes. It handcuffs hospitals from making the changes needed to ensure that human resources are used effectively and that the maximum possible amount of a hospital's budget is directed to front-line patient care. The current framework, much of which dates from the 1960s, was designed in a different era for a different health care system and a very different economic environment, as we all know. Today, hospitals and their employees need a new and modern framework to meet the current short-term pressures, which are very intense, and in the longer term to create a new labour relations environment that is in tune with the very rapidly changing health care system and its need for new ideas and new technologies.

We made a clear representation, as a result of all these considerations, of these requirements to the Minister of Health during our first meeting with him on this issue in the summer of 1995. We have repeated these and other arguments in subsequent meetings with the Minister of Finance and the Minister of Labour as well as subsequent meetings with the Minister of Health.

The Ontario Hospital Association and all its members have been supportive of Bill 136 from the outset. We felt that the legislation provided the tools to deal with the extraordinary environment in which we find ourselves and to proceed with restructuring without delay. We think they do so while balancing the needs of patients, employers,

employees, and taxpayers. We have placed patients first on that list because our obligation to provide the services to patients in the most constructive possible way is obviously the most critical one.

Hospitals were deeply troubled by the government's apparent retreat over the legislation, outlined in the Minister of Labour's statement in the Legislature on September 18, regarding intended amendments. Having been the most active and public supporters of the bill, the hospital sector has been disturbed by the prospects of dilution of some of its key provisions. I would conclude my introduction by saying that hospitals must have the tools they need to manage human resources in this period of very intense and extraordinary change. Without them we run a very real risk of having the restructuring process stall completely and become mired in delays and confusion. The deadlines in the Health Services Restructuring Commission will be completely unachievable.

I will now ask Murray McKenzie, president of North York General and chair of OHA's human resource committee, to explain the hospitals' needs in further detail.

Mr Murray McKenzie: Thank you, David. I want to make it absolutely clear to members of this committee that returning to the status quo in labour relations is simply not an option for hospitals. It would be disastrous. Business as usual simply won't do.

Having said that, let me speak first to the hospital sector's ongoing needs in terms of labour legislation. We understand that rather than proceeding with the establishment of the Dispute Resolutions Commission, the government will amend the Hospital Labour Disputes Arbitration Act. OHA has repeatedly called for amendments desperately needed to HLDAA, and we welcome any amendments in this round that (1) provide a permanent panel of arbitrators who are not dependent for their livelihood on any future business with either of the parties; (2) include best practices and taxpayers' interest criteria; (3) include expedited hearing mechanisms, mediation-arbitration and final offer selection, time limits for issuing awards, the ability to join disputes and a minimum term of two years from the date of the award. All of these are sadly lacking in the current legislation.

We would also like to note that the amended act should apply in all cases where a hearing did not occur prior to June 3, 1997, or where such a hearing occurred but a final decision was not issued prior to proclamation.

With respect to the sector's more immediate or transitional needs, the government must ensure the Ontario Labour Relations Board's effectiveness in order to provide any substantive assistance to hospitals during the period of restructuring. This can be accomplished by providing that, among other things, the Ontario Labour Relations Board must (1) ensure that non-union employees are as equally protected as union employees — nothing less will suffice; (2) provide a fast-track process for resolving union representation issues — absolutely critical; (3) ensure access to the new process, not only for mergers and amalgamations that are yet to occur but also for hospitals that have already merged which still have outstanding union repre-

sentation issues, some of those for years; and (4) not permit vice-chairs of the board to arbitrate or otherwise resolve non-Ontario Labour Relations Board disputes.

1030

Having provided the context for why the hospitals need these particular changes in order to accommodate hospital restructuring and the future of labour relations throughout the sector, I would like to turn our presentation over to my colleague Gail Paech, president of Toronto East General and Orthopaedic Hospital, to provide you with some recent examples of why we need them.

Ms Gail Paech: Good morning. I'm going to provide a couple of examples of the very real labour relations issues which have occurred within the hospital sector. I believe they illustrate the very real dilemmas that hospitals face in accommodating restructuring and why the sector has been so supportive of Bill 136.

In November 1996, the Hamilton Civic Hospital merged with Chedoke-McMaster Hospitals. Where program changes are concerned, the merger is still in the implementation phase. However, the Canadian Union of Public Employees has made its position clear that its members, service and other employees at the Civic and the Chedoke site have first priority on any jobs available at the new hospital after restructuring.

The problem in this instance is that the service workers at the McMaster site are not represented by a union. If the Ontario Labour Relations Board does not protect the interests of non-unionized employees in such circumstances, CUPE would be in a position where it can simply refuse to consider any position which balances the interests of all employees.

Example two which I would like to present to you this morning really reflects the time issues we are dealing with and the need to have a resolution which addresses the issues in a timely way. The Toronto Hospital is the result of a merger of the former Toronto Western and Toronto General hospitals in October 1986 — not 1996 but 1986. Eleven years later, the hospital has finally reached an agreement with the Ontario Nurses' Association to combine the seniority lists of its bargaining units at the two sites, with one restriction. However, CUPE still refuses to combine its bargaining units.

The result of CUPE's refusal is that there have been occasions where the hospital has had to hire carpenters and contractors to complete work on one site of the hospital rather than being able to transfer CUPE staff carpenters from the other site of the hospital.

These are but two of many examples I could give you which demonstrate why the sector welcomes Bill 136 as a means to provide a workable resolution to the dilemma that hospitals are facing with respect to the labour relations issues.

Mr MacKinnon: I hope these two real-life descriptions of both the problems and the kinds of issues that have arisen without the changes that are built into the proposals for Bill 136 are useful to the committee. There are two figures I would like to draw to your attention. One

is to emphasize the 11 long years that Ms Paech has described in relation to one dispute.

I would also like to highlight one other, which is that in the two hospitals represented here this morning somewhere between 50% and 70% of the staff have changed their positions within the last two or three years. I would like the members of the committee to consider what that means for the people affected, for the management of hospitals and for the kinds of instruments that are needed to accommodate that kind of massive change so that it does not impact upon patient care. We believe that the very health of the system is threatened if we do not move very expeditiously to resolve the very real issues hospitals are facing to accommodate restructuring and to facilitate a more rational, consistent and modern treatment of collective agreements in the future.

That concludes the formal part of our presentation. For whatever time remains, we'd be happy to respond to questions from the committee.

The Chair: You've left us time for questions, which I know the members of the committee appreciate, about four minutes per caucus. We'll begin with the government caucus.

Mr Tim Hudak (Niagara South): Thank you to the OHA for the presentation. I think it demonstrates strongly a need for changes in labour legislation. We've heard some mention from the third party and from some witnesses that there hasn't been a strike during transitions in the past, therefore you don't need to change the labour legislation. Your argument is just the opposite. In fact, you came up with some great examples. Let's see if I have them straight: It's taken 11 years for two hospitals in Toronto to amalgamate — General and Western, is that correct? — a couple of their unions.

Mr McKenzie: It's not finished yet.

Mr Hudak: It's not even finished yet. So if you want to send a carpenter from one site to do a little work at the other site, he or she is not allowed to visit that site. Any money that's wasted in terms of not being able to utilize the labour you already have — you have to contract out to somebody else — is money that can't go into direct-line patient care. It's less money for kidney dialysis or for an operation or to pay a nurse. I think that demonstrates very clearly how important changes are and how quickly they're needed in this sector.

Chedoke-McMaster is another example you brought up. Here you have non-union workers at the McMaster site — is that right? — one of the groups. I understand that if we don't make changes to labour legislation during amalgamation, that group would not be protected. So is it the view of the OHA that it's important to recognize the rights of non-union employees in amalgamations and mergers?

Mr MacKinnon: Absolutely equitable treatment is critical to the effective functioning of the hospital.

Mr Hudak: When we look at restructuring of hospitals across Ontario to make sure that we put more resources into front-line services, into patient care, how critical is it that we change labour legislation? If we don't move for-

ward with Bill 136, what kind of situation will we be looking at down the road due to all the different restructurings and amalgamations that are going to take place in the next few years?

Mr McKenzie: Restructuring, as prescribed by the Health Services Restructuring Commission, will not occur. It's as simple as that. It will not occur. It cannot occur.

Mr Hudak: If we try to move ahead with that without making changes to the labour legislation, will this situation where carpenters and such can't move from building to building be rampant across the province, that kind of waste and duplication?

Mr McKenzie: It won't just be rampant across the province; it will also result in a very chaotic environment that will take multiple years and we'll pay a price in terms of patient care and the disruption of patient care teams that we don't want to pay as a society.

Mr Dan Newman (Scarborough Centre): I want to thank the OHA and the four of you for coming before the committee today.

I'd like to talk about, if we could get an estimate, what the financial cost to hospitals would be of not having Bill 136 in place. Has the OHA been able to make any sort of estimate and what effect that might have on patient care in this province?

Mr McKenzie: Let me just make a preliminary comment. We haven't done a detailed calculation.

Mr Hudak: It must be enormous.

Mr McKenzie: It would be in the hundreds of millions of dollars. We have had that very broad discussion in terms of the impact. The savings and the shifts in resources that the commission is calling for, instead of working within a one-and-a-half to three-year time frame for most of the changes, we'd be looking at a five-year-plus time frame in the very best of situations, and in the process pay a terrible price in terms of quality of care and access as well.

1040

Mr Pat Hoy (Essex-Kent): Thanks, everyone, for being here this morning. I was particularly pleased to read of your comments in Chatham recently, where you visited. I was unable to attend but I saw them through the press. Part of your presentation here highlights again some of the concerns you had in that locale.

I happen to represent two thirds of the municipalities in what will soon be known as Chatham-Kent. There is a huge restructuring going on there, both municipally, and the hospitals are earmarked to have a visit from the commission shortly.

I'm pleased that you feel that union and non-union staff should be treated on some equal basis. The municipalities tend to feel the same way, those politicians I've talked to, reeves and others. They want to see a sense of fairness. As well, they also recognize that there may not be as many employees.

So those non-union workers who may have made less money in the past, it's more easily deemed that they could be brought up to a higher pay scale because there would

be fewer employees. In the hospital sector, would you predict that there would be fewer employees, equal numbers, more?

Ms Paech: Certainly with restructuring there will be a reallocation of human resources. As you look at redesigning the health care system, you are looking at trying to provide more health care services in the community, so there is an opportunity there. For years we have been talking about providing services in the community and we have not done that. There is an opportunity, therefore, for individuals who are presently in the hospital sector to be able to move and provide those services in the community.

You are seeing a transformation of how we provide health care services, so there certainly are the opportunities for new types of positions such as nurse practitioners in hospitals; there are opportunities for more nurses to work in the home sector, for homemakers. So yes, there will be those opportunities.

Will there be some downsizing? Will there be some loss of jobs? Yes, there will be some loss of jobs. But I think that the hospital sector also has a track record of leading in all sectors, of an ability to provide the supports in terms of their pension plans and also of helping people with adjusting to loss of jobs and then looking for new places for employment.

We were the first to bring in HTAP. What hospitals have done also — certainly my facility spent \$8 million of their own resources to help people with early retirements, and financial contribution, to ensure their wellbeing.

Mr Hoy: In the human resources area, I'm talking to people in my community who are having high levels of stress. Not only has their workload changed and been added to but they're not certain about the future and whether they're going to have jobs or not. I view this somewhat in this regard, that the restructuring is moving so quickly, and now you are here today to say, "Very quickly give us the tools to manage something that is moving far, far too fast." Would you agree?

We have a chicken-and-egg situation here. The restructuring is going far too quickly, and now you're asking for other pieces of legislation to help you move even quicker. For the public good, would it not have been better that this hospital restructuring went somewhat slower and more thoughtfully?

Ms Paech: I think people are experiencing more stress because they do not understand or know what the impact will be on them as individuals. So they are asking their organizations, "At least let us know what is going to happen to us."

Right now hospital workers have no idea of where they're going to work and what type of job they are going to do with the bumping process. That is creating unbelievable stress, more so than with the issue of restructuring overall.

Mr McKenzie: If I could just add to that, most of the workers I talk to want to get on with it, want to get things done. They know that change is coming; they know there will be job loss. They don't know the rules, they feel apprehensive, but they want to get through the change.

The other issue related to demoralization goes back to the factor of current arbitration and collective agreement provisions related to disruption and to bumping. For nurses, for example, cancellation of a single shift triggers the bumping provisions. When your team is constantly changing and when the environment in which you're working and the relationships that you have and the skills that you are expected to demonstrate are constantly shifting, that's one of the major reasons for the demoralization and the problems in health care teams.

Mr Christopherson: Thank you very much for your presentation. I'd like to start by just picking up where Mr Newman talked about the financial cost of all of this and point out that right at the top of your presentation you're stating, "Hospitals are in a period of intense and rapid restructuring accompanied by massive budget reductions." You go on to point out that in fiscal 1996-97 it was 5% reduction; in 1997-98, that's 6%. When you want to talk about dollars and how much things cost, take a look at what you're doing to our hospitals and our communities in terms of the budget dollars that you've cut and the lack of reinvestment that's taking place in our communities.

I would also comment on Mr Hudak's submission that there need to be all kinds of changes, and he points to the examples you've raised here about Hamilton and Toronto. Let me say that the labour movement in this province, both in the hospital sector and elsewhere, is not opposed to expeditious resolution of problems. In fact historically it has been the labour movement that has pushed to try to have time frames that work for both parties, as long as the system is fair. The OFL has said very clearly they're not opposed to changes in the way we do things to accommodate the restructuring. They disagree with a lot of the restructuring, but they respect the right that the government is the government and it has a right to exercise its majority, but things need to be fair.

It troubles me when government members leave the impression that somehow the unions are happy that some things take 11 years to resolve. They aren't. They want them resolved as quickly if not quicker than anyone else, but they want the system fair. That's why you had to back down on your original Bill 136, because it wasn't fair. Now, if the government's listening, we'll get closer to something that is fair.

I would point out that had the government talked to the labour movement before it dropped 136 on the floor of the Legislature, as well as all the other partners, we could have avoided a lot of the apprehension and fear and concern that's out there by all members of society, both those who work in the public sector and those who use the services.

I would also mention that when we talk about the Hamilton example, the biggest fear we have in Hamilton right now is that we're going to lose one of our key hospitals. We've had two major reports that have said we need all our hospitals. We've done the restructuring, we've saved the money necessary, and the idea of losing St Joseph's Hospital or the Henderson or Chedoke-

McMaster is terrifying to the people in our community, particularly the seniors in the downtown area I represent.

The fact that CUPE is representing their members is their obligation, just like the OHA has a responsibility to represent your member organizations and each of the government backbenchers has an obligation to represent their constituents. What's necessary, first of all, I would think that the best thing those workers at Chedoke-McMaster could do is unionize so that they do have the strength of collective bargaining. But barring that, again, a fair and expeditious legal resolution to these problems is what unions have been seeking for decades.

My question to you is this. You say that one of the biggest threats facing the health system that we have are these labour relations issues. I don't know that I would disagree with the fact that if they aren't resolved fairly and expeditiously we could run into serious problems. But isn't it fair to say that in communities like mine in Hamilton and here in Toronto the whole issue of making sure the money saved from this restructuring is reinvested back in the community, either through extended hospital services or community services, is the greatest threat facing the health care system right now?

Mr MacKinnon: If I may respond on two levels, first of all, it's going to be very important in a time of rapid change that hospitals, their partners in the community and everyone works together. If that doesn't happen the outlook is not promising. I think that's the answer to your last set of questions.

The answer to your first on the funding comments in our presentation is that, yes, we have had significant budget cuts coming before restructuring. That has been an issue. We believe that the government in its budget did respond to that in substantive ways, although it will be very important that the restructuring expenditures budgeted are actually operative, that we actually get that all operationalized so that the money can flow.

The government has indicated that it is going to postpone the third-year cuts. We believe it's very important that that decision be finalized to make sure that there's a key financial stability as we move through this period of rapid change. We're mindful of the extent to which government has responded to our concerns in that area, but it will be critically important to follow up on those responses so that the restructuring money actually flows quickly and hopefully up front, and secondly, so that the third-year cuts that they have indicated are postponed definitively. Unless that happens it's a significant difficulty soon.

Mr Christopherson: Sir, I know you're talking to Ontarians in every community across this province. They're all feeling the impacts of the cuts on your budgets in terms of longer waiting, getting access to beds, services that have been reduced or eliminated, and I would suggest that that's the biggest threat facing us.

The Chair: Presenters, our time has expired. On behalf of all of the members the committee, I thank you for taking the time to come before us this morning with your advice.

Mr MacKinnon: Thank you, Madam Chair.

The Chair: Are the representatives from the Ontario Nurses' Association present? Colleagues, they are our next presenters and do not seem to be here at this moment. We will again take a five-minute recess to allow them time to appear.

The committee recessed from 1051 to 1101.

ONTARIO NURSES' ASSOCIATION

The Chair: Our next presenters are from the Ontario Nurses' Association. Welcome to the committee.

Ms Barb Wahl: Thank you. Good morning. My name is Barb Wahl, and my colleagues and I from the Ontario Nurses' Association are pleased to appear today to present our concerns about Bill 136. With me today are Lesley Bell, chief executive officer, Risa Pancer, arbitration officer, and Seppo Nousiainen, our research officer.

As a union representing 43,000 registered nurses and allied health care workers in the province, we are party to over 500 collective agreements. They are in public hospitals, nursing homes, homes for the aged, community health, home care and industry. With the exception of those working in private industry, virtually all of our members will be vitally affected by both sections of Bill 136.

We acknowledge that the minister's statement of September 18 may now allow us to work with independent arbitrators. However, since we do not have the details of the proposed changes, we cannot comment on them.

We believe that Bill 136 as presently conceived is a fundamental attack on the long-held rights of our members to receive an impartial and fair hearing in contract disputes. It makes it likely that our hard-won rights will be taken away when the legislation compels arbitrators to base decisions on economically oriented criteria such as the employer's ability to pay. As a result, we face the potential loss of many of the provisions we have fought for decades to achieve, including provisions that have a direct effect on patient care.

As the legislation is currently written no concern will be given to quality-of-care issues and the fairness of the process. If there are no substantive changes, Bill 136 will be an open invitation to undermine the integrity of our bargaining units in situations involving mergers, amalgamations, and transfer of services. The future of professional bargaining units such as those in ONA is placed in jeopardy given the inherent bias in the purpose and criteria clauses that seem to favour larger bargaining units. While the "bigger is better" philosophy may appeal to government and to employers, it must be recognized that it could fatally affect the ability of employees such as nurses to democratically choose their own representatives. That is simply unacceptable to us, and indeed it works against long-established labour relations principles that value the contributions that professional units can make, particularly in bringing forward issues concerning quality of care.

The legislation also contemplates that in certain situations involving the joining of organized and unorganized employees, nurses could lose their union altogether. Our

very right to exist could be jeopardized by an anti-union vote, or even worse, no ability at all to vote for the union of choice.

The legislation also threatens to destroy the system of central collective bargaining that we, along with our employers, have taken so many years to create. Thus the incentive to cooperate is lost, and we will all be faced with the huge cost and complexity of negotiating hundreds of collective agreements in workplaces in Ontario. If the government hoped that Bill 136 could reduce the cost, complexity, and the time it takes to conclude collective agreements, we believe the opposite will result. Stability will not be enhanced and chaos could result.

We would like to comment on five specific areas.

Our first area of concern has to do with impartiality and fairness in the decision-making process. Bill 136 must ensure a decision-making process that guarantees a process grounded in independence, impartiality and fairness. The government must ensure that arbitrators do not have their powers restricted any time because of legislation or regulations. It's critical to maintain the current and long-standing system of independent tripartite arbitration. Unless impartiality is somehow restored, the whole process will lose credibility. The bill must ensure that procedural safeguards provide an open and fair hearing of issues.

We understand the government has proposed a number of changes that may offer an element of consultation in the appointment of adjudicators and a greater measure of procedural fairness in the adjudication process, or indeed, return us to the current system. Our understanding of these proposals is that they could take us towards a satisfactory resolution of these issues, but at this point in time we cannot comment on them.

Our concern about an independent decision-making entity not only applies to interest disputes but also to the Ontario Labour Relations Board. The minister has indicated an intention not to proceed with the establishment of a labour relations transition committee and instead assign these functions to the Ontario Labour Relations Board. But that in itself would not allay our concerns. We remain concerned that the board's independence may be undermined as a result of recent terminations, appointments and public statements made by the government.

Our second area of concern is with respect to contract stripping and effect on quality of health care. We understand that during the recent briefing of labour representatives by ministry staff the economic criteria as first proposed in the bill will remain. If this is so, we must strongly assert our continuing objection to the bill. It is an open question whether the criteria will result in reductions of front-line services and/or compensation of public sector employees. We question why these criteria will be operational on a permanent basis when the rationale has spoken only of the need for stability during the two-year transition process.

On the issue of the degree to which services may have to be reduced if current funding and taxation levels are not increased, this predetermines the decision-makers will not

increase wages or other compensation since the government is unlikely to increase funding. In fact, it's unclear what this criterion really means.

We would suggest that fairness and quality criteria be written into the legislation to balance the economically oriented criteria. If this is not done, we expect to see employers invest significant resources in an attempt to have our contracts stripped of many provisions that today protect the quality of care we deliver in our health care institutions.

1110

One of these is the professional responsibility clause found in all of our hospital collective agreements and in many other agreements in homes for the aged and nursing homes. The essence of this provision is that nurses may bring forward a complaint when asked to perform more work than is consistent with safe patient care. Once a complaint is made, efforts are made to resolve the complaint to the satisfaction of both parties. Failing resolution, it is referred to an independent assessment committee which makes findings and recommendations.

It is precisely these types of quality-of-care considerations we fear will be lost in an adjudication that is directed to consider economic issues at the expense of quality issues. This would particularly be the case if nurses' collective agreements were incorporated into an all-employee collective agreement. In other words, this uniquely professional provision would have little chance of surviving a consolidation of collective agreements, particularly since RNs may only be a small group within a larger all-employee bargaining unit.

Other types of quality of care provisions can be found throughout our collective agreements, such as issues dealing with continuous shift work, scheduling weekend work, overtime, the delegation of added nursing skills, sanctioned medical acts, and other working conditions. All of these have been written either to protect quality standards and/or to ensure that nurses' working conditions are such that quality care will result.

Finally, if there is to be no elimination of the right to strike, even during the transition period, what is the justification for changes to the interest arbitration criteria during the same period for those who don't have the right to strike in the first place?

Our concern is that if our collective agreements are subject to economic evaluation alone, many of the above-mentioned professionally oriented provisions will be taken out of our agreements because they may be looked at as frills or they may be simply overlooked in agreements where nurses are a minority. That is why we are asking for quality-of-care and fairness concerns in terms of both client outcomes and staff morale to be directly addressed in Bill 136 as opposed to the overt emphasis now being placed on economic criteria.

Our third area of concern has to do with bargaining unit determination. The Labour Relations Transition Commission has been given the authority under section 24(1) to "determine the number, scope and composition of bargaining units that are appropriate," in situations where

hospitals are merged, amalgamated or where "substantial restructuring of two or more employers who operate hospitals during the transition period" has occurred. This authority is given if the parties cannot agree on these issues.

The danger here is that the appropriateness of bargaining unit makeup may be lost to conflicting goals provided by the legislation itself, the inexperience of the commissioners, who are not compelled to follow the rules of the current Ontario Labour Relations Board, or the misguided motives of employers who consolidate bargaining units in the mistaken belief that this will save money. The stakes are high for our union, since the very existence of any separate professional bargaining unit could be in question, particularly where votes are held to create all-employee units. Worse still, nurses could lose their bargaining rights even without a vote, where there is a joining of a small nurses unit with a large all-employee unit.

It is regrettable that the legislation creating the Labour Relations Transition Commission did not incorporate such criteria as the history of collective bargaining, employee preferences and community of interest as considerations when questions are raised about bargaining units. We understand, however, that these issues will be incorporated into the yet-unseen amendments.

It is also worth noting that other jurisdictions such as British Columbia and Saskatchewan have grappled with similar restructuring issues in health care and the final resolution of bargaining unit makeup has been in favour of maintaining separate units for nurses along with units for other technical or service employees. We trust that any amendments made to Bill 136 will also allow this to happen in Ontario.

We welcome the statement of the minister that ONA's professional concerns will be addressed by amendments to the bill as well as the undertaking that no group of unionized employees will lose their collective bargaining rights without a vote. However, as indicated earlier, until we see the actual amendments we are left in doubt about whether or not our concerns have been resolved.

Our fourth issue concerns central bargaining. Bill 136 presents the very real possibility that central bargaining will begin to break down in Ontario. This would be extremely regrettable since all of the parties have worked together for over 20 years to preserve and expand the central system. Just recently, central bargaining was adopted in nursing homes and by the Victorian Order of Nurses, and we expect soon to begin a process of central bargaining in homes for the aged. It is the economic criteria and purpose clauses found within Bill 136 that will jeopardize this cost-effective process of central collective bargaining.

Our final area of concern is with regard to pay equity. Bill 136 should be amended immediately to recognize the recent court judgement which supports our position that employers are obligated to end pay inequity without any arbitrary limitations on the adjustments required.

In conclusion, we acknowledge that the government appears to be making major changes to this bill, but has as

yet refused to share with us the details of these changes. There is a real danger that long-established practices regarding bargaining-unit determination and representation rights will be lost and the future of central bargaining will be in jeopardy. We ask that you deal with the process issues through amendments to other legislation such as the Labour Relations Act and the Hospital Labour Disputes Arbitration Act and withdraw Bill 136.

We would now be pleased to entertain any questions.

The Chair: We have just about five minutes each per caucus and we'll begin with questions from the official opposition.

Mr Patten: Good morning. There are some sections I would like to read, because I know in the interests of time you skipped over sections of your brief. If I may respond, in some cases you're saying you acknowledge that the minister has said certain things but you're reacting to what is in the bill at the moment.

As we heard yesterday — I don't know if you have a copy of the minister's statement made yesterday — the government is saying they intend to address, but I gather from you that you're somewhat handicapped by virtue of not having the detailed amendments.

Ms Wahl: Right.

Mr Patten: The government members of course feel that this is highly unusual. I would contend that in a bill where there is such dramatic proposed change to the government's own legislation, it certainly would be helpful, at minimum, and I think ethical, to propose those amendments and say, "Here's what they are; here's how we see these things play out," otherwise it causes doubt in the eyes of many and leads to some of the cynicism that prevails about the true intent of the government to go as far as they say they are prepared to go. So I would ask whether you feel you are in that kind of position.

Ms Wahl: We are in that position. We don't know what the amendments are going to look like, although we've heard rumours. We're speculating, but we don't know. Our only position possible was to respond to what we have seen on paper to date. We'd like very much to see the amendments and we'd like very much to respond to amendments.

Mr Patten: You addressed numerous cases, and I for one, knowing you and your union members, having worked in the hospital sector very closely for four and a half years, know what the nurses have to do, what they have to contend with and the incredible pressure and insecurity and stressfulness that are there at the moment on almost every side.

Continually you allude to the concern for quality of care. I would like to ask you if you would elaborate somewhat on that. What does that mean on the floor of a hospital when you say the implications for affecting quality of care are there?

Ms Wahl: If the quality-of-care concerns were not there, then nurses would not have the tools they have now to indicate that staffing has reached an unsafe level. Right now, if staffing reaches an unsafe level, they can use the professional responsibility clause. We have forms to fill

out and they go to the employer and we keep a record. It is a very important indication of what's happening on a floor. While at one point in time there may not be changes immediately, what starts to happen is that a pattern is developed and there's an accurate record of what's going on. Nurses are able to reach back and say: "We've told you for six months, three months, whatever, that we've got insufficient staff on floor X and now this incident has taken place. Here's the proof that the cause is the staffing. We've been telling you that there have been problems right along."

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Nurses have been willing to work harder, do more, and they've done that consistently. They're working 14-hour days in many cases. I had a call last week from nurses who are in a position of having to work 18 hours of mandatory overtime in a pay period. But if you take away the assurance of being able to provide quality care, nurses will not tolerate that change.

Mr Hoy: I just had one brief question in regard to pay equity. We had a presentation this morning that suggested any reference in the bill to pay equity simply be removed. Would you agree with that position in light of the court decision recently?

Ms Wahl: We think that's most appropriate.

Mr Hoy: I know you said it should be amended, but for now you've stated that you agree that references to pay equity under Bill 136 should simply be removed?

Ms Wahl: Right. That would be satisfactory to us.

Mr Christopherson: Thank you very much for your presentation, and good morning. I want to start by mentioning to you — I don't know if you were here for it — that earlier Mr Gilchrist commented that it would be insulting to presenters if they offered their amendments before they had heard from everybody. Our position in the opposition is that we've never seen a bill gutted to the degree that this one has been and completely reorienting, completely changing the direction that a bill is going, and therefore the insult is not to offer up the amendments, because this isn't the bill that's going to pass.

We're also suggesting that it's insulting for those of you making presentations to realize that we're going to hear right up until 5 pm on Friday submissions, and yet by 10 am Monday morning we're expected to have all our amendments in place and in legalese and submitted to the clerk.

It's also insulting, in my opinion, to suggest that this government is actually listening because there's absolutely no time for a P and P meeting or a cabinet meeting between the time of the last submission and the deadline for the amendments. That means they've already made up their minds. They know what direction they're going in. They haven't left enough time procedurally to consider anything that's being said here. In our opinion, that's what is insulting about this process.

In that regard, I'd like to ask you if you're aware of any other piece of legislation that has been so dramatically changed by announcements from the minister and then no amendments are being offered. In other words, have you

ever had a piece of legislation where there's so much change announced and then you're asked to come in and make submissions to a piece of legislation that de facto doesn't exist any more? Have you ever experienced this before?

Ms Wahl: I haven't, and I'll just check with someone on my panel. No.

Mr Seppo Nousiainen: We've made a number of presentations in this particular committee over the last dozen years that I've been party to and I've never seen this before.

Mr Christopherson: I think that's the point. Even their friends have been in here and admitted that they would have preferred to have — and they said it in much softer language, and that's understandable — the amendments too so they knew what they were commenting on.

When we start talking about what's insulting to people, what's insulting is this sham of a process where the government is not really interested in listening. They're interested in putting up a front that suggests that they're listening and we know of course that they're not.

I want to get to the quality-of-care issue also, but I want to mention that the Ontario Hospital Association was here before you. They said, "Hospitals are in a period of intense and rapid restructuring accompanied by massive budget reductions." Yet to the listen to the government, you'd think that the biggest crisis facing hospitals right now is the possibility of labour problems as a result of their ill-conceived, massive restructuring that's going on.

Could I ask you, what's happening right now on the floor of hospitals in terms of the effect on health care as a result of the budget cuts that have already taken place?

Ms Wahl: I can start with that. I think many of you have read about it in the newspapers and seen it on your local television. We have insufficient staff in many cases. We have people moving through hospitals at a record pace. We have had 10,000 layoffs of registered nurses, so we know that the same number of people are sick in Ontario and we know that there are 10,000 fewer registered nurses to provide care for them.

There are alternatives that can be provided. As a nurses' association we have suggested for over a year that the government face moving to an integrated delivery system, that significant savings can be achieved that way as well as enhanced quality patient care, as people don't have to receive care in various silos of the health care system. We believe that's the direction we need to move in, because patients will continue to be ill. The number of people who are ill is steadily increasing and we need to make fundamental changes to how health care is delivered. Dealing with labour issues at the one end is not going to provide the solution.

Mr Christopherson: Is it not also fair to say that if we're going to survive the massive restructuring that is going on in health care across the province, the money that's saved from any kind of restructuring needs to be reinvested back into the communities in order to provide the community-based health care? To date, we aren't

seeing that investment; we aren't seeing those announcements.

Ms Wahl: We have concerns about that, but even moneys that are reinvested into the community are being reinvested in a piecemeal fashion. We believe they should be moving to integration and then the moneys should be invested in an integrated fashion rather than the way it's happening now.

Mr Christopherson: When people listen to the government say "ability to pay as a criterion," it sounds reasonable to an awful lot of them. They say ability to pay is a standard measure in any kind of negotiations. But you're raising the issue that if that's the only matter to be considered, what happens at the quality-of-care end? You're saying, if I understand correctly, that if you're going to have an emphasis on the financial end, you've got to have an equal emphasis on what happens to the health care delivery that's available to citizens at the time that this criterion is being applied. Is that correct?

Ms Wahl: Absolutely.

Mr Christopherson: Again, why is that so important to you?

Ms Wahl: Because if the only criterion is the economic criterion, then the issues that we believe to be very important that lead to good patient outcomes are not being considered. You can just think of personal situations where if the only thing driving it is economics, the person in your family is not going to get the care that may be required.

What needs to be considered is whole care for the community, good outcomes, better health for the entire community, and you can't drive that by just changing the economics in one portion of the health care system. If you make changes in one area, then you have to compensate somewhere else.

Our main area of compensation that we feel is being neglected terribly at this point in time is the whole issue of prevention, with a reduction of public health nurses, with patients being in hospital such a short period of time that they don't receive any teaching that would keep them well and prevent them from coming into the hospital again on another occasion.

Mr Maves: Thank you very much for your presentation. Sir, you've been at this for quite some time, I take it from your comments. I wonder if you could tell me which committee in the past, when you were making a presentation, already had the amendments before it.

Mr Nousiainen: I've certainly seen some amendments brought forward, as I recall, in some of the committee proceedings that I've been involved in either during or very shortly after, but they've been very, very minor amendments, not wholesale amendments. Essentially many of these amendments are usually sort of technical amendments where something has been missed or there was a loophole found. In fact, we've found a few loopholes which have found themselves into the amendments, but wholesale amendments like this — we basically don't know what we're addressing here.

Mr Maves: So you've never seen a full body of amendments before a committee that you've been making presentations to?

Mr Nousiainen: Never of this scope or scale, ever.

Mr Maves: You've never had a full slate of amendments before you when you were making a presentation?

Mr Nousiainen: I'm sorry, I don't understand your question.

Mr Maves: In almost every bill that I've ever been involved with, in some cases ministers make statements beforehand about some changes they're going to make. The amendments don't appear. They appear afterwards, with the rest of the bulk of the amendments. I'm just —

Mr Nousiainen: As I say, they were usually technical things. I've never seen anything like this. That's all.

Mr Maves: Thank you. Did you have amendments when you made a presentation to the NDP government during public hearings on the social contract?

Mr Nousiainen: I wasn't present at that particular hearing.

Mr Maves: They didn't have them, actually, would be the answer. Sorry for that; it's really not fair for me to get partisan with you, but I just wanted to point that out in response to Mr Christopherson's comments.

Ms Lesley Bell: Before you move on, I think we need to examine this process. The issue isn't the amendments coming forward; it's the fact that the government has fundamentally changed its direction on the bill. What we need to know is where that's heading before we can comment on it. You're bringing up a point that technically is right, but you're missing the overall need to comment on the fundamental changes in the legislation, not technical amendments.

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Mr Maves: Part of your submission was that there were consultations. The reason the NDP didn't have public hearings on the social contract was because they said they had consultations beforehand with labour, which we have done. It's the same thing.

Mr Christopherson: You did not.

Mr Maves: We've had consultations and we've agreed to make some changes. One of the changes I want to mention to you is in the minister's speech she said: "We heard concerns from other organizations, such as the Ontario Nurses' Association, regarding the importance of continuing specialized bargaining units for professional staff. We will be addressing these concerns." You are happy about that direction, I take it?

Ms Bell: We're very supportive of the comments and look forward to seeing the actual wording of the amendment, which is more critical than just the comments.

Mr Newman: I want to thank the ONA for coming before the committee this morning. On page 2 of your brief it says: "If the government hoped that Bill 136 could reduce the cost, complexity and the time that it takes to conclude collective agreements, Bill 136 will lead directly to the opposite result. Stability will not be enhanced. Chaos will be created."

A previous presenter, the OHA, referred to chaos already existing within the system and made reference to the ONA when they said in their presentation: "The Toronto Hospital is the result of a merger of the former Toronto Western and Toronto General hospitals in October 1986. Eleven years later, the hospital has finally reached an agreement with the Ontario Nurses' Association to combine the seniority lists of its bargaining units at the two sites with some restrictions." Then they go on to say, "However, CUPE still refuses to combine its bargaining units."

They're saying there will be chaos without Bill 136, you're saying there's chaos with Bill 136. Where do you see nurses and hospital workers being without Bill 136? Is there not going to be mass confusion?

Ms Wahl: There certainly is that one example which absolutely is extreme. However, we do have article 10 in our rationalization agreement in our collective agreement under the Labour Relations Act that deals with that. Remember we said we have 500 collective agreements. There are many examples across the province where things have moved very quickly, smoothly, to the satisfaction of all parties concerned. So there is one example, but we could point to dozens of others where things have moved quickly and efficiently.

Ms Bell: We also need to examine the chaos that we're talking about, and I think it's two different categories of chaos. We're talking about chaos as it relates to central bargaining and chaos as it relates to patient care and quality care outcomes. The issues are a bit different. The one example they've cited doesn't recognize that we recognized it as a problem and negotiated with the OHA central language that deals with rationalization and that was on the books long before any suggested Bill 136 came into existence.

The Chair: Thank you very much. Our time has expired. On behalf of all of the members of the committee, I would like to thank you for taking the time to come before us this morning with your views on this bill.

CANADIAN UNION OF PUBLIC EMPLOYEES

The Chair: I now call upon representatives of the Canadian Union of Public Employees. Good morning, and welcome.

Mr Sid Ryan: Let me begin by introducing the people with me here today. Judy Darcy is the national president of CUPE, and Julie Davis is our director of staff in Ontario; she also sat at the table with the government bureaucrats dealing with the changes to Bill 136.

I'd like to say right up front about the way we have dealt with this bill, the way the government has dealt with us, clearly I think the signal is going out from workers in this province that they're fed up with the bullying tactics of this government. We're hearing that loud and clear from the public. They're sick and tired of the bullying tactics. I think what you've seen in the last number of weeks, the mobilization particularly of CUPE's 180,000

members and to strike votes, we've got an 87% strike mandate to deal with this piece of legislation.

I would like to put you on notice that the labour movement today has made a decision that they're going to be supporting the school teachers in this province. If this government wants to take on the school teachers, they will have the rest of the labour movement, 460,000 members, to deal with as well. We are not being split apart from the school teachers in this province. We're dealing with 136 and the school teacher legislation as one package and we will not be demobilizing our members until such time as we see that teachers in this province have been treated also with dignity and respect.

Let me go on to say that the Canadian Union of Public Employees represents 460,000 workers and is the largest union in Canada. In Ontario, CUPE represents 180,000 workers, most of whom work for health care facilities, municipalities, school boards, universities, social services, libraries, public utilities, broadcasting, airlines and other institutions providing services to the public.

Participants in these public hearings are faced with discussing phantom legislation. That is not an easy task. The way in which the government has been dealing with 136 makes a mockery of the hearings. The Minister of Labour announced that Bill 136 would be substantially amended. Unfortunately, the actual wording of these amendments will not be released until after these public hearings are over. Everyone is faced with trying to address a bill that is not clear and amendments that are not certain.

People participating in a public forum of this kind should have an opportunity to argue for or against specific provisions that will be dealt with in the Legislature. We implore the minister to make the proposed amendments public, so that we can properly debate the contents of the actual bill.

Since we do not have the actual amendments to the bill, we must respond to the minister's statements. She promised that the Dispute Resolution Commission and the Labour Relations Transition Commission would be eliminated. This submission will not address these features of the legislation because we assume that the minister will not go back on her word.

The government has not kept its promise to hold public hearings across this province. Bill 136 affects public sector workers from Kenora to Kingston and from Windsor to Ottawa. Public hearings should be held across the province.

Since we do not have the amendments promised by the Minister of Labour, we will present our position on the substance of the minister's statement, the elements of Bill 136 that she has indicated will remain, and information provided to us by the government.

When the government was introducing Bill 136, it indicated that it was an extraordinary piece of legislation that suspended, on a temporary basis, such acknowledged fundamental rights as free collective bargaining.

The government suggested that the bill was urgently required because existing legislation was incapable of resolving collective bargaining issues that would arise as a

result of the restructuring of Ontario's broader public sector. A review of the labour relations history in this province clearly suggests otherwise, and I'd like Sister Judy Darcy to make some comments.

Ms Judy Darcy: As we all know, regional municipal governments were created in Ontario in the 1970s without the help of Bill 136, hospitals have been restructured in this province already without the help of Bill 136, and I would add from a national perspective that in every single province across this country school boards, municipalities and hospitals have been merging and amalgamating and restructuring, again without anything that begins to resemble Bill 136.

The government says the bill is necessary to deal with an anticipated flurry of strikes, but recent labour history would suggest otherwise. If restrictions on the right to strike are still being contemplated, we ask you to take a long, hard look at the fact that in our union alone over 700 collective agreements have been negotiated in the last 18 months or so and in that time period only 2% of those resulted in any kind of labour dispute and most of those were resolved very quickly. The evidence is very clear that Ontario does not need anything resembling Bill 136 to address restructuring.

Our role as a union is of course to protect the collective agreements of our members, some of whom are among the lowest-paid workers in the province. We're not talking about fat cats here, we're talking about some of the lowest-paid and most vulnerable workers in Ontario, and we're still deeply concerned that this government may use the legislation to weaken our collective agreements.

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We're concerned that the Ministry of Labour will be given a new interventionist role with respect to arbitrations, and this from a government that says it believes that we should be getting government off our backs, but ironically, that doesn't seem to apply in the field of labour relations. CUPE cannot emphasize enough that such interference from Queen's Park will lead to massive labour unrest. If it doesn't lead to it in the course of this bill or before this bill is passed, if in fact what is contemplated is serious intervention in the arbitration process in collective bargaining, then such labour unrest will result after Bill 136 as the parties engage in the process of arbitration and collective bargaining.

The government is saying it wants the power still to impose criteria and to determine the type of arbitration that is conducted. Instead of traditional arbitration, a system that has worked well in this province, the government is suggesting that mediation arbitration or final offer selection be the order of the day.

We feel very strongly that giving the Ministry of Labour the power to determine the type of arbitration process will undermine the independence of arbitration boards. Mediation arbitration and final-offer selection have major problems associated with them and do not work in most circumstances. We ask you to take a look at the province of Manitoba where final-offer selection has been proven not to work and where neither party is now

resorting to it, because it has been proven not to meet anybody's needs.

Respected arbitrators do not favour mediation arbitration. They call it, in arbitral lingo, "splitting the difference" because it induces the board to ignore the merits of individual positions and make an award based on giving a little bit to each side. More troubling is the government position that final-offer selection can be a real option in certain circumstances, because final-offer selection imposes a winner-take-all scenario, and one side ends up bitter and angry at the end of the dispute.

Arbitrators have also made clear in this province that they dislike final-offer selection, because it does not allow them to correct aspects of a package that could cause major labour relations difficulties in the future. Final-offer selection ties the hands of arbitrators and eliminates fairness, and in jurisdictions where the final-offer selection option is open to both workplace parties, as in Manitoba, there has been very little interest in adopting it.

Mr Ryan: Any imposition of final-offer selection or mediation arbitration represents political interference in what should be an impartial process. Ministry officials have told the labour movement that this government is committed to continuing the full unfettered right to strike. If this is the case, there is no need for a criterion that determines whether a strike is in the so-called public interest.

The provincial government does not need enhanced powers to deal with strikes that threaten public health and safety. In an emergency situation, the provincial government always has the option of passing back-to-work legislation. Recourse to strikes and lockouts is part of our democratic heritage. The potential for strikes and lockouts ensures that employers and unions bargain seriously.

The total package of changes proposed for Bill 136 would create an interest arbitration system that is neither fair, impartial, nor independent. Collective agreements would be skewed to meet only the interests of employers. It is up to the board of arbitration to independently weigh evidence presented by both unions and employers and come to a decision. This position is supported by the Catholic Bishops of Ontario, who have already written to the Premier saying that any interference in the impartiality of the arbitration process is unfair and unwarranted and they should tread lightly before they take away those democratic rights from workers who do not have the right to strike.

Bill 136 forces arbitrators to consider legislative criteria in determining their arbitration awards. It adds to the already established criteria which were legislated under Bill 26. CUPE strongly opposes this proposed change. Under Bill 136, arbitrators would have to encourage best practices that ensure the delivery of quality and effective services that are affordable for taxpayers.

The best practices criterion could be used to skew arbitration in favour of employers. Best practices has been used to compare the cost of services in one workplace with the cost of services in another workplace. More often than not, under best practices, the wage rates and benefit costs

in a unionized workplace are compared unfavourably with the wage rates and benefit costs in a non-unionized workplace in which basically you have low wages, no benefits, no pension plans, no sick leave plans.

It is unfair to compare the modest wages of workers in the public sector to the non-unionized sector, who basically have, as I indicated, no benefits whatsoever and no recourse to other than the minimum provided in the Labour Relations Act. Legislated criteria like best practices and ability to pay attempt to force arbitrators to give in to employers' demands for major wage and benefit rollbacks.

Ms Darcy: History has shown that workers join unions to better their wages and working conditions, and it is an undisputed fact of life that unionized positions do provide better compensation than similar non-union jobs, and no union bargaining team would ever consider non-union rates as a basis for a contract settlement. We will not have our contracts compared to non-union workplaces with low wages and poor working conditions.

We will not be forced to engage in a bidding war where one group of workers is forced to bid against another group of workers saying, "Hey, I'll work for \$10 an hour," "I'll work for \$8 an hour," "I'll work for \$6 an hour," sold to the lowest bidder. We are very concerned that we will be forced into that situation by these criteria. That's not good for our members. It's also not good for our communities because union settlements have been responsible for raising the wages and improving the working conditions of all workers.

Legislated criteria can be used to lower the wages and benefits of essential workers who reach their collective agreements through interest arbitration legislation. It is unfair to deny essential service workers their fundamental right to strike and then also force them to deal with an arbitration board that has been directed, by legislation, to disregard their interests and concerns. That's not fairness; that's tipping the balance against one side.

Arbitration boards must be free to weigh the evidence presented by both parties, without feeling the heavy hand of government. Again, I reiterate, this is a government that says it wants to have less interference in people's lives. You should be true to your word as it affects the interest arbitration system.

Certain mechanisms of the existing arbitration system ensure against bias and against partisan behaviour, and these aspects must absolutely be safeguarded. The appointments process whereby unions and employers must agree on an arbitrator must be protected. Because unions and employers have so much control over who becomes an arbitrator, arbitrators strive to be seen as evenhanded and fair to both sides; otherwise, they won't get work. A whole series of checks and balances ensure that arbitrators remain relatively neutral and attempt to fashion awards that represent a fair balance between the interests of both parties. If the parties cannot agree, the Ministry of Labour appoints an arbitrator from a list of recognized arbitrators.

There has been a long-standing practice of consulting parties before names are added to the list. There has also been a long-standing practice of removing names of those

arbitrators who fail to achieve sufficient consensual appointments, that is, where the employer and the union agree, and these present practices should continue. The use of nominees must continue, because nominees, otherwise known as sidespersons, are appointed to advocate on behalf of each of the parties to the dispute. They provide the arbitrator with valuable insight into the dispute and often help to achieve a result that is reasonably satisfactory to all parties.

Mr Ryan: I would like to deal with the expanded role of the Ontario Labour Relations Board. The minister has indicated in her statement that she has accepted the position of the OFL that the Ontario Labour Relations Board is the appropriate body to deal with labour relations issues arising from the restructuring in the broader public sector. We applaud this recognition.

Our endorsement of the OLRB is qualified by our concerns about this government's unprecedented interference in the independence and impartiality of the board. Over the last year, vice-chairs of the board have been dismissed mid-term and the courts have examined whether the board is free from the apprehension of bias because of allegations of ministerial interference in its operation. These actions are unprecedented. Furthermore, it appears that the chair of the board had little or no involvement in the recent decision not to renew the appointments of three long-serving vice-chairs and the appointment of two new vice-chairs.

It is a cornerstone of a democratic society that tribunals such as the Ontario Labour Relations Board be free from governmental interference and influence. Government interference in the OLRB must cease and a return to the previous practice with regard to the appointment of vice-chairs must take place.

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The minister's statement left questions about how the OLRB's powers would be expanded to deal with labour relations issues arising out of restructuring. One of those issues relates to the provision in Bill 136 that a composite collective agreement apply during the transition period. This is a recipe for chaos. The collective agreement of the winning bargaining agent should apply to all employees in the new bargaining unit. The union and the employer should have only one collective agreement to administer throughout the transition period.

We are concerned that the government seems to be pursuing unrestricted power to expand the definition of restructuring to any occurrence during the transition period. A government should not be able to alter the scope of a piece of legislation without the appropriate legislative review.

CUPE and other affected parties have been able to resolve seniority issues in the past without the help of a third party. Where disputes may prove difficult to resolve, they should be dealt with by the Ontario Labour Relations Board. Rigid, complex legislative rules cannot encompass every possible situation faced by merging workplaces.

Ms Darcy: We believe it is far better for the OLRB to determine seniority issues on a case-by-case basis. Bill

136 imposed thresholds, so votes to determine a bargaining agent would not have to be held in every situation. Ministry officials now say a vote to determine a bargaining agent will occur in every circumstance. We do not need votes to take place in every case. When a small unit of 10 employees is merged with a large bargaining unit of 500 employees, for example, there is clearly no need for a vote to determine the bargaining agent. The process is a waste of time and money, and the scarce resources of the OLRB should not be spent on unnecessary votes. We maintain that the OLRB should determine whether a vote is necessary after assessing each merger situation.

Finally, the minister's statement promised that OPSEU would be on the ballot where crown employees were transferred to another level of government. We have been assured by ministry officials that all bargaining agents representing crown employees would have a similar right and we support that decision.

Bill 136 has a devastating impact on the rights of women in this province to achieve and maintain pay equity. The bill's battering of the scope of the Pay Equity Act is the latest round in this government's ideological assault on equity for women in Ontario. Women's wages will be reduced because of this legislation. Why, for instance, does the government insist on limiting retroactivity for women entitled to a wage adjustment? Isn't this part of Bill 136 a brazen attempt to save costs and let bad bosses continue to cheat women out of decent wages?

The legislation is offensive because it puts the onus on individual women to complain if their rights are being violated. The bill encourages public sector employers to limit their liability by not posting a plan and not informing employees of their rights under the act. Women have been protected by the Pay Equity Act so that their pay equity increases cannot be reduced because of restructuring, yet Bill 136 seeks to remove that protection.

CUPE believes that the provincial government and the Pay Equity Commission should instead see their role as advocating for equality issues and for women's rights. The legislation's complaints-based procedure, and indeed the entire bill, will not further, and in fact will set back in a major way, the interests of women in the province.

Mr Ryan: I'd like to deal with the wage protection fund. We see absolutely no reason whatsoever for the government to get involved in the elimination of the wage protection fund. Clearly this has had no impact on restructuring and will have no impact on the restructuring process. We are deeply disturbed about the complete elimination of the wage protection program. The program was designed to help employees who did not have a viable claim for severance and termination pay when their employers went bankrupt, because of the provisions of the Bankruptcy Act. The wage protection fund would provide some money to cover lost wages. The cost of this program to the government was tiny. The government is mean-spirited to abolish such an important benefit for unemployed workers, many of whom face devastation once they have lost a permanent job.

In conclusion, the Canadian Union of Public Employees remains very concerned about Bill 136. We urge the government to make progressive amendments to this legislation, or better yet, withdraw Bill 136 in order to ensure fairness and balance in the labour relations environment in Ontario.

Ms Darcy: Finally, let me just reiterate our main recommendations: (1) that government interference in the OLRB cease and that a return to the consensual appointment of vice-chairs to the board be immediately implemented; (2) we agree with the government's stated position that there will be no limitations on the right to strike; (3) that the collective agreement of a winning bargaining agent apply to all employees in a new bargaining unit; (4) that binding arbitration remain fair, independent and impartial, with no government intervention or interference; (5) that binding arbitration remain fair, independent and impartial, including the selection of arbitrators to go on the list or roster; and (6) that pay equity increases be protected to ensure that the rights of the women of Ontario are not violated.

Thank you again for the opportunity to make a presentation. We welcome any questions.

The Chair: We have time for three minutes of questioning from each caucus. We'll begin with the NDP caucus.

Mr Christopherson: Thank you very much for your presentation this morning. The government is suggesting that the reason they're backing down is because they've been listening and they care and they want to be fair to everybody, and yet we know that if they were really serious about listening, they would have met with you before they dropped Bill 136 on the floor of the Legislature, where you then could have presented the very alternatives the government has now adopted. I think anyone who thinks that through will realize they aren't making these changes because they care and because they're listening. I'd like to ask you why you think they have made the announcements that they have.

Mr Ryan: You mean the changes that they have? Clearly, they responded to almost half a million workers saying that we're not going to put up with this type of abuse, taking away, for no apparent reason, rights we have had for 50 years. We have demonstrated in the Canadian Union of Public Employees, which is the major employee group in the broader public sector, that we have had hardly any strikes in normal negotiations, let alone when it comes to restructuring. We have not had one single strike anywhere in the history of this province when it comes to mergers or amalgamations. We went even further. We checked right across Canada, because we're a Canadian union, and we could not find one example of any workplace ever having a strike. So the rationale for the introduction of this legislation was bogus. We're obviously horrified.

But they did go and consult with the employer community. Here is legislation that affects half a million workers. They didn't take the time to pick up a telephone and ask the CUPE membership what we think about the legisla-

tion; they went straight to the employer community, solicited input from the employer community and of course came up with a bill that was completely skewed in favour of employers. Is it any wonder that half a million workers in this province are absolutely outraged at this bill?

Mr Christopherson: Also, you talk about the phantom legislation. I suspect you may hear from the government — we certainly have in other presentations — “Look, it’s not normal and it’s not usual that amendments would be in front of the public before they have had a chance to listen.” Of course we know that this one week here in Toronto is a breach of the promise to travel the province. In fact there is not enough time, given the end of the hearings is Friday at 5 pm and by 10 am Monday morning we have to have the amendments in, in legalese.

I want to ask you — I know that each of you has made numerous presentations — have you ever seen a piece of legislation so thoroughly gutted and changed before the hearings began as we have here in 136? Have you ever seen anything like it before?

Ms Darcy: No, we have not, and I have not seen it, as national president of CUPE, having been involved in making presentations to legislative committees across the province on a whole host of legislation. But the fundamental issue here is that we still need to see the fine print because we’re not convinced, and we won’t be convinced until we see the fine print, that those changes have really been made.

We are still deeply concerned about whether we have a fair and impartial arbitration system, it is not at all clear that pay equity as it has stood before still exists, and there is absolutely no justification under the rubric of restructuring in Ontario to attack pay equity. There are several issues there that are still really important. The government is making public pronouncements about having moved drastically. We hope that’s true, but we won’t know it until we see the fine print, and we’re still deeply worried.

Mr Christopherson: I say to you and all the people in the labour movement, you’ve given a lot of hope to people that you can take on these bullies and win, and for that we thank you very much.

Mr John Hastings (Etobicoke-Rexdale): Mr Ryan and Ms Darcy, how many days of hearings or how many standing committees on resources development or justice did you come before regarding the social contract when it was initiated by the NDP in 1992-93?

Mr Ryan: We may not have liked the social contract, but let me assure you of this much: We were certainly involved in dialogue face to face with everybody from the Premier on down to ministers responsible, right throughout the government. We didn’t like the answers we got at the end of the process, but we at least had input for several months. On a daily basis we met with government officials and we met with ministerial officials and we met with cabinet ministers, unlike your government, which didn’t have the courtesy to pick up the telephone and solicit input from the representatives of 180,000 members in this province and from half a million workers. You didn’t have the decency to pick up a telephone and ask for our input.

Mr Hastings: Did you get the expected outcome of the social contract?

Ms Darcy: With respect, Mr Hastings, we weren’t happy with that process or that bill, but one lousy —

Mr Hastings: You weren’t. Thank you.

Ms Darcy: One second. But one bad bill doesn’t justify an even worse bill. I think we should be putting the focus back on the bill that’s in front of this committee, which is the present one. That as we didn’t like the social contract, this one is far, far worse. So let’s talk about what is in front of us right now, not go back in history.

Mr Gilchrist: I will get back to the bill, but there’s a quote from 1993 that must be put on the record: “Leaders of the 170,000-member Ontario division of CUPE say they will not participate in the social contract negotiations because that ‘would give legitimacy to a process that’s stacked against unions.’” That was Ms Darcy. Mr Ryan, you may have made those phone calls, but Ms Darcy put on the record that she wasn’t even going to be part of it.

The bottom line is — let me get this straight — initially you said, “Don’t touch our successor rights or collective agreement contracting-out.” You got both. You asked for the Labour Relations Transition Commission to be replaced by the OLRB. You got it. You asked for the elimination of the Dispute Resolution Commission and a return to the previous interest arbitration regime. You got it. You asked for the removal of potential restriction on the right to strike. You got it.

Now it’s our understanding that you want to move the goalposts again. So after listening, after responding, now it’s the education bill. If there are accommodations made there, what’s next? Gasoline pricing? This is a political act, Mr Ryan. You know full well you’ve been spoiling for a fight and you are going to use any excuse to do it. You keep haranguing and haranguing and even when we listen — at the start of this process you said, “They’ll never listen.” Well, we listened and we responded and all you’ve done is come back with new demands.

The fact of the matter is, neither the NDP nor the Liberals who have had the bill since June 3 have tabled any amendments, even if the amendments were to say: “Delete this section. Delete this section. Delete this section.” So the pious protests from the other side and the suggestion that somehow the amendments come before we listen to people are utterly preposterous. The NDP hasn’t brought forward any amendments and they can’t accuse us of abusing the system any more or less than them.

The bottom line is, the amendments come at the end of the process. Thank you for coming before us, but you didn’t surprise us. This is all a political rant.

Mr Ryan: You know, Mr Gilchrist, your phoney moral outrage doesn’t impress anybody at this end of the table, I can assure you. Your government has attacked workers in this province every single day for the last two and a half years, including taking away basic health and safety rights that we’ve got —

The Chair: Sorry, Mr Ryan. The time has expired. Mr Patten, if you would, please.

Mr Patten: If anybody is ever spoiling for a fight, Mr Gilchrist, you'd fill the bill, believe me.

The understanding about how this system works: The bill has been dramatically changed and every single group except one, the Ontario Hospital Association, has said that they are either handicapped or they're inhibited by not having the specificity that's required to address exactly what it's going to mean.

Presumably you've have some discussions with the minister and with government officials. I must tell you I have some concerns about this as well, especially when we talk about transferring the power from the old, presumably discarded transition commission now to the Ontario Labour Relations Board. However, my understanding is that lock, stock and barrel, the criteria that were with the commission are still with the board now and that changes the manner in which they would proceed. It would be not in the traditional way in which they've been able to resolve disputes to this point. Is that your understanding as well?

Ms Darcy: Yes, it is. Our understanding is that the criteria are still in the bill and the purpose clause remains unchanged. We are deeply concerned about that. I want to build on that to go back to what Mr Gilchrist said. It may be convenient for you, sir, to accuse us of moving the goalposts. The fact is, the presentation we have made to you here today reiterates issues we have raised from the beginning of the process.

I ask you to listen, and listen hard, to the conclusion we made to our presentation and the issues we highlighted, because the issue of neutrality of arbitrators and if they're still being dictated to with these criteria — we still have concerns. We said that from day one. From day one we said we had concerns about pay equity. We still have concerns about pay equity. We hope that restrictions on the right to strike are gone. That's not a new concern.

Please, let's not raise bogeypeople here in order to throw us off track. We've got Bill 136 in front of us. We'd like to hear what you have to say in response to the serious concerns we still have.

The Chair: With that, we thank you very much. All members of the committee appreciate your advice this morning. This committee will stand recessed. We'll reconvene this afternoon at 3:30.

The committee recessed from 1204 to 1530.

The Chair: Good afternoon, everyone. The standing committee on resources development is called to order. We are gathered together this afternoon for the purposes of listening to deputations on Bill 136.

Mr Patten: Chair, I wonder if I could, very quickly, without taking time away from our witnesses, get an update on teleconferencing. I understand there are a couple of places that were on the list that we're not going to be able to have.

The Chair: We'll ask Mr Arnott to update you on that.

Clerk Pro Tem (Mr Doug Arnott): Teleconferencing facilities have been arranged for three locations for tomorrow. Those locations are Ottawa in the morning, Kincardine in the afternoon and Thunder Bay in the evening.

Witnesses have been notified of the locations, have been scheduled to a great extent; we're still working on the schedules. I expect to have revised agendas for the committee members by this evening.

Mr Patten: In Kirkland Lake there were three that I'm aware of, a firefighter and teachers from two different boards. Will they get a chance to make representation?

Clerk Pro Tem: If they have not yet been scheduled in one of those locations, I would not expect so.

Mr Patten: I should be asking the Chair this, I guess. These people would have to go to Thunder Bay. What happens if they want to make a presentation and they have notified us, but we haven't had the capacity? Are you going to pay for them to go to Thunder Bay?

The Chair: I have instructed the clerk that if affordability of transportation to a site was a concern, we would accommodate that.

Just so everyone on the committee is aware, for the individual witnesses, the clerk's office is first going through the list that each caucus has submitted, based on the larger list of all the presenters who offered to appear before the committee, and they're filling in from those lists first.

Mr Christopherson: Yesterday there was discussion around notification, which to me was a joke, given the amount of time, but that doesn't abdicate the government from being responsible for lack thereof. Can I ask, besides the lists that were submitted, how we went about asking people in that community and letting it be known they could make presentations before this committee through your electronic wizardry?

The Chair: I think the first choice is always to the list of people who have previously offered, through the clerk's office, to appear in various communities. The clerk, as I understand it, will look at those lists first.

Do you have anything to add to that?

Clerk Pro Tem: That's correct.

Mr Christopherson: But my question is, how were those communities advised that they could ask to be put on the list? Some people know enough about the process that they do it automatically; they know a bill is introduced, and the list sits there and grows over a period of weeks. In this case, since there is so little time, we don't know how much the word got out. How much exposure was there in those communities to let individuals and organizations know there was this opportunity?

The Chair: There was some discussion about advertising yesterday. There was no motion on the floor to direct me to actually go out and advertise, so as I said, we looked first to the list of people. There are a great number of people who are interested. Naturally, we followed the same procedures as we always do, that is, we consulted the list of people who had offered to be witnesses first. Beyond that, we have not advertised. If that's what you're specifically asking, no, we have not advertised in each community because of the shortness of time.

Mr Christopherson: I don't want to belabour the point, because anybody who is following this will know clearly what has gone on and what a farce all this is. I just want to respond to your statement — I appreciate why you

would say that's the usual procedure. I just say again that there is absolutely nothing usual about the procedure being done here. We have never seen anything like this in committee consultation, or what is supposed to pass for that, in the history of Ontario. We continue to see that time and time again with this government, as they shut down the democratic process, both for opposition members and for communities.

The Chair: It behooves me to indicate that we're following customary procedure in that we are asking people who are on the list of each caucus. We're choosing a third of the presenters recommended by each of the caucuses, so it's a third from the government, a third from the official opposition and a third from the third party, from your party. That comes from the lists of the people who, as is the custom, phone the clerk's office to be booked for hearings on any number of public bills.

Mr Christopherson: I realize you're doing the best you can. Aside from the fact that you are one of them, you're trying to do the best you can in terms of chairing this. I'm not trying to find fault with you. You can only deal with the mess that the majority on the government back bench has foisted on the rest of us. But I want to make it clear that any suggestion that anything is usual or traditional or normal about this process is totally unacceptable, as is readily apparent to anybody who has been following this even marginally.

Mr Ernie Hardeman (Oxford): It's your opinion, not shared.

Mr Christopherson: I think you'll find a whole lot of people share that opinion.

The Chair: The time line is extremely short, but the process itself is very similar to what is normally followed, the process I'm aware of.

Mr Maves: Since they have decided to engage in a debate on the whole process, it's only fair to note that during a subcommittee meeting last week, I tried to move a motion that would allow discussion of how we would carry on procedures if the two opposition parties' motions didn't carry through committee; everyone knew it was probably quite likely that they wouldn't carry. Had they agreed to that, most of these scheduling problems that we had last night and the scheduling problems that we may or may not be having in teleconferencing would probably have been alleviated. It's only fair to put that on the record.

Mr Christopherson: No. I want to respond to that. That's not true. You can argue whether you think we should have had that discussion or not. The reality is that the subcommittee, by procedure, is allowed to take a majority position, which is exactly what happened. You should have built that into your time frame, because no matter how much you try, we still have a few rights around here.

The other thing is that even if we had had that discussion, the time frame between Thursday afternoon and Tuesday afternoon is not anywhere near the normal time. Normally — and you know this, Bart — we will have discussions even a couple of weeks before we start advertising, and the advertising goes out there for about a week

or two before people respond, and then the process the Chair has talked about kicks in. You have set all that aside, wiped it aside with the back of your hand, and rammed this thing through. You just make yourself look foolish trying to defend it otherwise.

Mr Maves: Thursday and Friday, if the clerk had been allowed to start the process, we wouldn't have had a problem with blank spaces yesterday.

Mr Christopherson: You can't say that. Any blank spaces are the ones over there on the government side.

Mr Maves: Then you filibustered all day Monday and Tuesday morning.

The Chair: Colleagues, please. We can go back and forth over this. The fact of the matter is that we have guests who are prepared to make presentations to us. It's only right that we ask them to come forward. I just want to take a moment to acknowledge that we have Hansard. We thank the Hansard people, who have prepared this for us quickly. It is available for us to share with constituents or with any parties who might be interested.

Mr Christopherson: On that point, I would ask that we also send it out in advance to people who have confirmed that they are coming, if we can get a fax number from them and send that out as quickly as possible. This is the closest thing we have to detailed information, so it's important that people have it.

The Chair: It's my understanding that the clerk's office is indicating that there is material available and they are making available whatever they wish to receive, so this would be added to that list.

Mr Christopherson: Great. That's fine.

1540

AMALGAMATED TRANSIT UNION, CANADIAN COUNCIL

The Chair: I call upon our first witness this afternoon, representatives from the Amalgamated Transit Union, Canadian Council. Mr Parkin, welcome.

Mr Tom Parkin: I have given everybody a written copy of my comments. If there are spelling mistakes or grammatical errors, it's because, with the time, I can only be as quick as I can. We were discussing some of the matters that apparently are going to be for your input with government members yesterday at this time. I was called by the clerk's assistant yesterday afternoon, requesting me to come to sit on your committee last night, which was just not possible for me, given that I have other commitments. I was narrowly able to make this time. I had meetings this morning, which gave me only a two-hour break to try to put this presentation together. This process is far from helpful to us in being able to raise the points we're trying to raise and that I think we've succeeded in raising over the last few months.

At any rate, I want to start by telling you that free collective bargaining is an essential aspect of our society; it is a democratic aspect of our society. Where a work disruption would cause a threat to public health or safety, a

fair, independent and neutral arbitration system is required. Free collective bargaining is and always should be preferred over arbitration unless work stoppages would imperil public health or safety. This is simply because the costs involved are less from the dues-paying and tax-paying members of our society. Second, it's a process that works without state intervention, a process that works its way out. We should not see any need for government to intrude where no intrusion is necessary.

Despite this, Bill 136, as proposed originally by the Conservative government — as I say, we don't have any clue what we are discussing here today, because that has not been made available to me or anyone else. Bill 136 in the form originally proposed would have swept hundreds of thousands of people into an arbitration system for no apparent reason, and it would have taken them, therefore, out of the free collective bargaining system. This was justified to us and the public on the basis that there could be work stoppages due to the magnitude of and confusion caused by your restructuring agenda.

There is no logic behind this, because there has been restructuring in the public sector forever. I can think back a few years to when London was restructured or the hospitals in Windsor were restructured. We didn't need Bill 136 for that. Everything worked out quite nicely. There were bumps and scrapes along the way, but there were certainly no work disruptions. There was certainly no threat of any sort in that matter. That was an effective and efficient way of dealing with things, and it showed good public policy. This does not. There has never been work stoppage caused by restructuring, so the premise that you put this bill to us on simply doesn't hold.

Simply the fact that it is unneeded legislation doesn't make it evil or wicked legislation, but in fact this is wicked legislation, as it was originally proposed. I want to point out four reasons why.

(1) It politicizes the arbitration system and it politicizes the collective bargaining system in this province. That's an unnecessary and I think a very dangerous precedent.

(2) It was trying to force the members of our organization into a system where they were going to pay for your download and your tax cut. That's simply not fair.

(3) It was an affront to issues of freedom of choice of representation in the way that bargaining unit and bargaining agent transition was to occur.

(4) There were some important principles about wage protection and about equal pay for equal work that were wiped out by this bill.

Bill 136, as it was proposed, attempted to pass the download through to us by creating a non-neutral and non-independent arbitration system. First, it eliminated the current consensual roster of arbitrators and replaced them with your handpicked appointees from cabinet. That was just not acceptable, because it biased the independence. Further, these people were not even given any independence should they decide to take that tack against you; they could have been removed at your behest. There was a real flaw in the logic of what arbitration should be. It should be independent and neutral, because that's what the free

collective bargaining system is. If you're going to get rid of that, the system of state intervention that you produce must be fair and independent. You didn't do that on the first count.

On the second count, in the proposed bill you forced arbitrators to follow legislative guidelines, your political objectives. That's not right. That's not fair. That's not taking the free collective bargaining system and replacing it with an independent and neutral arbitration system; that's replacing it with an arbitration system where you're telling the arbitrators what to do. That's wrong. That's not good industrial relations.

The issue of the right to choice by employees was also a problem for us. I'll outline the four points I've got here.

First, the jurisprudence on the definition of what an appropriate bargaining unit is: There is long-established jurisprudence on this. None the less, you overrode it. You aimed to negate the choices that were made by groups of workers and attempted to impose or are attempting to impose — I don't know — your own definition of what an appropriate bargaining unit is. But this time it says, not "appropriate for collective bargaining purposes," but rather, in the words of your legislation, "appropriate for the successor employer." This is exactly the point you really are missing here, that the whole system of free collective bargaining, or arbitration where there is peril to health and safety in the case of work stoppage, is not for the employer or the employees; it's for the system and the success of the system to continue. Yet in your legislation right up front you say that the bargaining unit should be appropriate for the successor employer, wiping out the clause that said, "for the purposes of collective bargaining."

In our mind, this not only overrode the LRB jurisprudence, it showed disdain for the shown wishes of workers who chose bargaining units. It also sets up a two-track system, where we've got one program going on in the private sector and another one for people who are now subject to this legislation.

Second, your insertion of the legislated threshold in representation votes denies the right of workers to make their case to the Labour Relations Board regarding which bargaining agent should be on the ballot and why. There are always cases at the margin. You took away the right — or you aim to take away the right, and we don't know what you're doing now. You aim to take away the right of people to have a hearing on these matters. These are important matters, about who is going to represent whom. That's fundamental to a democratic society. You tried to take that away.

You tried to take away the right to a hearing. You tried to take away the right to natural justice in those hearings. If that kind of thinking was applied to a court of this land — and the labour board is a quasi-court — the Supreme Court would have just said that your law is no good. But that's what you tried to do.

You also attempted to take away the choice of workers to choose some bargaining agents, to have options on the ballot that included every option. You tried to take that

right away from them too by taking the name of unions representing former crown employers off a representation ballot. You can't just take a political party off the election ballot, and you can't take a union off the representation ballot. That's unfair.

You also aimed to take away the wage protection program, which ensured that workers, particularly in the private sector, got paid if their employer went bankrupt. As you know, in the federal legislation — I'll point out to members of the Liberal caucus that at one time your federal cousins promised to get rid of these changes to federal legislation that placed workers at the back of the line in case there was a bankruptcy in the company they worked for, placing everybody else, the creditors, the landlord, the tax man, ahead of them. But the previous government did implement the employment wage protection program, and that delivered some fairness. Now you're taking it away. We don't accept that as being right.

Similarly, you're retroactively rolling back pay equity almost 10 years on the issue of people who work in the private child care industry.

We all know that there have been some discussions going on in some places. We're not sure what the term is for these discussions. But what we are told at this point is that there will be massive amendments to this bill. We haven't seen any of these amendments. That makes it very difficult for me to stand here today in this most unusual process and tell you what I think of them, but I'll try.

To our latest understanding, Bill 136 will still bias arbitration by inserting legislative criteria directing arbitrators rather than retaining the independence of arbitrators. This is not acceptable, and the transit union will stand behind those workers who are forced into a biased arbitration system. It will, as my understanding is, still take away the right of choice for workers' bargaining units. I'll return to this point. It will eliminate the employee wage protection program. It will retroactively roll back equal pay for equal work.

1550

Although the government heard this storm of protest and quickly promised these amendments, your cave-in on several points cannot really be considered a win for us, because you haven't done anything to help our members and help the employees of Ontario seek fairness in their workplace. You haven't done anything to avoid employers' use of scabs. You haven't done anything to restore injured workers' pensions or the organizations that sought to reduce injuries on the job. You haven't done anything to get back the right to choose a union, if they wish, for people who are domestics or people who are in the farm factory industries. You haven't done anything to maintain the union of choice for those who are being privatized out of the crown. These are all things you've taken away. You're not putting any of that back. You're just taking more away, so this is a big negative for us and we can't ever remember it as anything but that.

There never was a need for Bill 136, not the way you spoke of it, and we continue to say today that there was no need for 136. You are pledging to modify 136, and we

understand that, but I hope you understand that the Ontario Federation of Labour special convention called for the withdrawal of 136; it didn't call for amendments around the edges or taking off this and that, cherry-picking this legislation. It said to withdraw, and we offered an alternative way of dealing with the problems that you up front said might be problems in restructuring. You didn't accept those. You chose to amend Bill 136 after you realized the storm of protest that was about to come upon you. I guess nothing has really changed. We're still saying, withdraw 136. We're still saying look at the alternative ways there are of doing it, and you're not accepting that, so here we are.

I don't want to spend a lot of time on the teachers' legislation, but it is pertinent to this discussion right here right now. We're disturbed by the indications that the government has, by legislation, reduced the issues to be considered bargainable. We find this to be a fearful intrusion. Experience from across the border has shown that when governments move to restrict workers and employees from talking about some issues, that can lead to poor results over the issues that remain. Limiting what is allowed to be discussed is a destabilizing intrusion by government into areas in which it has no business.

Also it is worrying that, as we understand, government may be able to intervene in disputes without the use of special purpose legislation, as I believe is the requirement in every other Canadian jurisdiction. Government power through regulation takes the debate over what serves the public interest out of the public sphere and puts it behind your closed doors. Free collective bargaining is an essential feature of our democratic society and can only be overridden where there is a threat to public health and safety. That's an established principle that I hope we adhere to. If you want to eliminate the right of teachers to free collective bargaining simply because it is inconvenient, please don't tell me you're going to do that by regulation, because that is an offence.

I indicated that I wanted to get back to the issue of appropriate bargaining units, because we do have a particular concern that perhaps you can address. When a group of employees wishes to form a union, a bargaining unit, that wish is respected by the labour board with the proviso that the bargaining unit must be appropriate for collective bargaining. Those are the terms under the current OLRA. The meaning of this term has been elucidated by 50 years of jurisprudence.

In cases where workplaces, either through the sale of a business or the amalgamation of a public agency, are joined, these bargaining units are maintained. Only if there is a so-called intermingling of the workforces from the previous workplaces can the LRB order a representation vote. Under existing law we also have deemed intermingling in the municipal sector, where the workforces are deemed to intermingle and therefore can be subject to an LRB-ordered vote.

These provisions serve to consolidate bargaining units into structures appropriate for the purposes of collective bargaining. But now you're introducing a new test, in

section 24 of schedule B, requiring the units to be "appropriate for the successor employer."

I stress that the goal of labour relations is not to please employers or employees; it is to facilitate the process of collective bargaining where groups of workers have made the choice to do that. It is that point that I think you missed off the top and why, perhaps unexpectedly, you got into trouble. To the members of the government caucus, I ask you to remove section 24 of schedule B. Let the jurisprudence of 50 years hold. Let's remember that the goal of labour law is not to take sides but to maintain the efficiency, effectiveness and fairness of collective bargaining.

On a related matter, where there are representation votes due to intermingling, let's make sure that workers have a true choice between bargaining agents. Groups of workers who never indicated any lack of support for their union must be permitted to support that union in a representation vote caused by intermingling if that is their choice. Eliminating a choice from the ballot without their consent is simply not fair.

The context of the election must be fair. If some sections of an agreement — language on job postings, grievance procedure and other central processes — are to pertain to all members of the new bargaining unit, with the economic matters to be red-circled or siloed, as the concept is coming to us, then the LRB must be allowed to choose the most appropriate master sections in situations where the union supported in the representation vote has no master section to apply because of their transfer from the crown. This puts everybody voting in a situation of fairness, and it's essential for you to try and make sure that that fairness in votes is followed.

In conclusion, you will hear other issues from other people. I'm not aware if the federation of labour has made its presentation yet or is yet to do that — Friday, I'm told — but we have certainly been close with the federation's work all the way through. Areas specifically mentioned here are because they are details that pertain to us specifically, and we certainly hold with them on major issues.

I want to thank you for the opportunity for a hearing. It is appreciated. I must tell you once again that we cannot understand the reason for 136. We must simply continue to tell you that while we've presented you with an alternative to 136, 136 in itself has no value and it should be withdrawn.

I'm open to your questions.

The Chair: Thank you very much. We have about 12 minutes remaining for questions. That's four minutes per caucus. We'll begin with the government caucus.

Mr Maves: Thank you for your presentation, Mr Parkin. The Amalgamated Transit Union has been involved in some of the discussions of late prior to changes to Bill 136. Were you personally involved in those discussions?

Mr Parkin: Yes.

Mr Maves: How have those discussions been, quite frank?

Mr Parkin: The members of MLO staff have come to us to explain the repositioning that the government has

been taking, given the political context of this province right now. They haven't spoken with us in a form of negotiation, nor is that what we want, because we're not interested in negotiating this bill. We're interested in having it taken away. We are offering you an alternative, which you haven't taken up. I just want to make the point to you very clearly that we are not at all being asked for our opinions. We are being presented with your shifting positions as your government continues to try and understand what the heck is going on with the public opposition to this bill.

Mr Maves: You didn't ask for the LRTC to be transferred to the OLRB, then. Is that what you're saying?

Mr Parkin: We asked for the LRTC to be thrown out.

Mr Maves: That the functions of the LRTC be transferred to the OLRB: You didn't ask for that?

Mr Parkin: We asked for the LRTC to be thrown out. We did not ask for it to be thrown out and then LRTC rules applied to the LRB, fettering the LRB. That wasn't what we asked for.

Mr Maves: That's not my understanding from what the OFL has said.

Mr Parkin: Then you're misreading, because I've been there at every stage, my friend.

Mr Maves: You didn't ask for the elimination of the Dispute Resolution Commission and a return to the arbitration regime that exists now?

Mr Parkin: Yes, we asked for the elimination of the DRC. We also asked for the elimination of legislated criteria. You haven't done that.

Mr Maves: You didn't want any compromise, really. You just wanted —

Mr Parkin: There's no reason for this bill. That's what I don't understand.

Mr Maves: Let me approach that one, then. This morning we had the OHA here and they talked to us about a merger that occurred in 1986 between the Toronto Western and the Toronto General hospitals. Eleven years later they still haven't solved all the issues there. Wouldn't you say that's a very good example of why some new processes could be useful, especially when there are amalgamations and mergers in hospitals and municipalities?

Mr Parkin: Mr Maves, did it cause a work stoppage? That's what you were saying. You were saying this was needed to stop work stoppages. It didn't happen. We did say get rid of 136, but we are willing to talk about ways that we can make the existing system faster. That's what we put down in that alternative, and I stand by that. But you didn't accept that. You accepted doing a few cherry-pickings of 136, and we don't accept that.

Mr Maves: Here's the OHA brief: "The functions of the LRTC are and can continue to be performed more effectively and more fairly by the Ontario Labour Relations Board."

Mr Parkin: That's right, so we said get rid of the LRTC, get rid of the rules that apply to the LRTC.

Mr Maves: And its functions can be applied by the OLRB.

Mr Parkin: Yes, if the LRB has its functions as is currently the case. It would not be a transfer; it would be restoration of the current independent system.

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Mr Maves: It says the function of the LRTC can be performed more fairly by the OLRB, and that's what we've done.

Mr Parkin: No, you haven't. You don't understand the point.

Mr Maves: We have transferred the functions of the LRTC to the OLRB.

Mr Parkin: The OLRB always had those functions, and now you moved them into a new body, you set a bunch of criteria that you were going to force these people to follow and that were unfair, and now you're going to take away the LRTC and put these unfair criteria against the OLRB. That's not what we asked for at all.

Mr Maves: You talked about legislative overrides, one of them the shown wishes of employees. In the bill we said that unless all the agents agree, there should be a representation vote. How does that take away the wishes of the employees?

Mr Parkin: When a group of people have decided that they want to bargain as a unit and they've got that permission from the LRB, when they've decided that is appropriate for collective bargaining purposes, that's their decision, I think. We should respect that decision. I don't think you can come in with a new piece of legislation that says, "Despite the fact that you don't intermingle with anybody, that there's no intermingling of workforces, we're going to tell you that now you have to be appropriate for the purposes of your new employer." I don't think that's a fair test. I don't think it's about trying to make the bargaining unit appropriate for the employer; it's trying to make the bargaining unit appropriate for collective bargaining. I can't stress that any more strongly.

Mr Maves: In the case of the merger of municipalities, the OLRB would hold a vote in every case with regard to representation, unless all the existing agents agreed on who was going to be the representative. I don't understand how that vote wouldn't show the wishes of those employees.

Mr Parkin: Let me just pitch this to you, Mr Maves. If the President of the United States said, "We're going to get rid of the border between Canada and the United States, but we're going to let you guys vote on who will be the president," would you consider that a fair deal? No. You'd say: "Look, I'm a little different. I have my own interests. I have my own country." That's what we're trying to say. Don't apply a new standard on to what these collective bargaining units should be. They should be for the purposes of collective bargaining, not for the purposes of the new employer. That's not right. That puts a bias into the system.

The Chair: Time's up. We go to the official opposition.

Mr Patten: Thank you for your presentation. You've laid out your position quite clearly. Right off the top I must let you know that you're the fifth presenter today out

of six who has stated there is some difficulty with the time-line or with not having the existing amendments before you. Having heard the discussion go back and forth between Mr Maves and you, I can see why it's important to have the amendments before the committee so that people like yourself can respond and know what you're dealing with. As you know, you will not have a chance to deal with it, because when the amendments are submitted next Monday, even though we finish Friday afternoon, there will be no time for anybody to respond to them. Once they're in, there are no amendments to any amendments. We don't know, the opposition doesn't know, the presenters don't know, none of the workers know and none of the organizations will know what is going on.

The other point you made which I thought was good — by the way, I'd like to refer back to that case Mr Maves referred to today. If I'm not mistaken, I think in response to a question it was said that it took 11 years to resolve an issue because the employer was not prepared to submit the case to the OLRB. If that's the only case we can identify, you're right: Where is this massive example of abuse in restructuring that has taken place, and what's the fear based on, that they have to be so heavy-handed as to bring about legislation like this? I agree with you that the premise is erroneous if you look at the evidence. It just doesn't stand up.

Let me ask you this. I have mentioned a few times already that my reading of what was going to happen is that the minister was essentially going to take the functions, responsibilities, authorities and the same criteria from the transition commission and just pass that over to the OLRB. We don't know what shape that's going to take. She did say "with new resources." I don't know if there will be a new structure. I don't know if there will be a special unit. We don't know any of these things. I think that's why we don't have the amendments before us, because when we see it we may find that the OLRB is just a guise for what the commission was going to do. It's now just going to be in name only under the OLRB. Is that your worry as well?

Mr Parkin: That's what I am led to believe, in fact; it's not just a worry.

Mr Patten: So your feeling is that there's no justification for the bill and it should be withdrawn. I have recommended the same thing. I don't think the government is going to buy our advice. You had the same briefing we had yesterday, I guess, the technical briefing from the ministry. Have you had a chance to read the minister's comments that she made yesterday?

Mr Parkin: No, I haven't.

Mr Patten: On the pay equity issue, she's saying that's a stay-of-execution situation. She hasn't declared herself, as far as I know. We haven't seen anything on that. On the wage protection issue, I agree with you that that isn't fair, and as you obliquely recommended, I will speak to my federal cousins on that.

Mr Parkin: I know this was before your time as an MPP, but I do recall your party fighting against the wage protection program pretty fiercely and asking for all kinds

of exemptions at the time it was introduced. I think we have to just bear in mind that not all of us were there at that time.

Second, I'd like to remind you that you supported a Conservative motion to the House some years ago that asked for fettered arbitration. I think it was March 5, 1993. I looked it up. You said that in cases of arbitration in the broader public sector and the public sector, arbitrators should be fettered. We wonder sometimes when members of your caucus, as I recently met with, say to me that we should be a little concerned about attacking these guys too hard and not being friendly enough with you. It's because we're sometimes not too sure that you're all that different.

Mr Patten: Times change, as you know, and different parties at different times respond to new realities. We don't agree with the heavy-handedness of all this, and we have supported continually the independent selection of arbitrators, especially for the essential workers. That's our position.

Mr Christopherson: I want to ask you if there was any discussion with you before Bill 136 was put together, before it was dropped in the Legislature, given that the government says it's making its moves now because it's so generously listening to everyone.

Mr Parkin: No. Also, I think we have to recall that the legislation was introduced on June 3, which was the day after a federal election. No, we never met with anybody, nor were we told anything about this.

Mr Christopherson: If the government follows through on its commitments — we don't know yet that it's going to because we haven't seen the actual wording. But if they do, and that lowers the temperature and resolves most of the outstanding issues, is it fair to say that an awful lot of worry and concern and political public positioning could have been avoided if they'd had those discussions ahead of time and listened to you the suggestions you made following the special convention in July?

Mr Parkin: If in fact the government's intention was to try and facilitate restructuring in the municipal, school board and hospital system, it would have probably talked to us, but the fact is that that was not what this was about. In my estimation, this was about making the members of our union pay for your download and your tax cut, and we can't negotiate that.

Mr Christopherson: The government is having great fun with this 11 years that it's taken to resolve a particular issue. Every time they do that, I intend to come back with the fact that they leave the impression that because it took 11 years, it's automatically the union's fault, it's automatically the workers' fault.

Interjection.

Mr Christopherson: You leave that impression when you ask union representatives about this 11 years and use that as an example of why you needed to do what you were doing in the original Bill 136. I've said to you repeatedly, and I ask Tom if it applies to his union, that the labour movement will never disagree with expediting matters under the Ontario Labour Relations Act or any

other piece of legislation. What they ask for is fairness. That was the problem with 136. Yes, it expedited things, but it removed all the fairness that existed in the legislation. I would ask Tom whether his union would support the concept of providing expedited processes within the labour legislation of this province, as long as it was fair and balanced.

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Mr Parkin: Absolutely. We were involved in the discussions that led to the development of our alternative, which proposed exactly that. We stand by that. I thought it was a not bad proposition to the government; the government chose not to accept that. I think that's unfortunate. If we can cut the amount of money that our members, through their dues, pay on proceedings with lawyers and stuff like that, that's great; I'd love to do it.

Mr Christopherson: The parliamentary assistant was trying to suggest that it was the OFL's recommendation that the DRC be eliminated and just transfer everything into the OLRA. If I heard you correctly, you were suggesting that the changes they made under Bill 136 were not necessary, and that if there were to be any expedited processes, you can do it in the OLRA; but that all the unfairness and meanness and stacking against unions that was in the DRC cannot be applied, or they have not met the criteria you were asking for.

Mr Parkin: That's right. They're still applying biased criteria upon arbitrators for those who, I gather, will still be in an arbitration regime, and that's clearly not fair. The latest indication was not only that some of the directive criteria were still there, but that the purpose clause would remain, which is a biased purpose clause for the entire structure. That's not right; that's not fair. The purpose clause should state something along the lines of, "The purposes are for fair outcomes," approximating those that would happen in a free collective bargaining system.

Mr Christopherson: It's interesting to remember that in two previous pieces of legislation, one still before the House, Bill 99, and Bill 7, the actual new Mike Harris Labour Relations Act removed the word "fair" that existed in the legislation that was there prior to the Tory hammer coming down.

The Chair: Mr Parkin, on behalf of the members of the committee, we thank you for coming before us this afternoon with your advice; it's appreciated.

ONTARIO ENGLISH CATHOLIC TEACHERS' ASSOCIATION

The Chair: I now call upon representatives from the Ontario English Catholic Teachers' Association. Good afternoon. Welcome.

Mr Marshall Jarvis: I'd like to begin by thanking you for giving us the opportunity, on behalf of the 35,000 Catholic teachers in the province, to make this presentation to you.

I'm Marshall Jarvis. I'm president of the association. Claire Ross is our general secretary, and Ray Fredette is our executive assistant.

I'd like to begin by saying the following: I believe the committee hearing process is essential to the passage of any legislation for the common good in a parliamentary democracy. I must say, however, that I'm a little puzzled by the way in which the current provincial government is developing legislation aimed at the working people in this province.

We are here today to discuss Bill 136, which includes not only workers in hospitals, schools and municipalities; it also includes occasional teachers who are members of the Ontario English Catholic Teachers' Association. Yet only yesterday the labour minister stated to this committee that she intends to proceed with significant changes to Bill 136. It certainly is a commitment that we hope she carries through on in a much more credible fashion than the minister did on the right to strike with the teachers.

Although we have yet to see any of these changes in writing, we are committed to endorsing a number of those changes. We are here today discussing a bill, however, which is incomplete and which, in the minister's mind, has been dramatically altered, yet we don't have the final version in front of us on which to comment, so we and perhaps some of you may feel at a slight disadvantage.

Regardless, section 1.03 of our brief states there is no evidence that union-employee relations require Bill 136. The unions are not resisting Bill 104, the Fewer School Boards Act, nor are they sabotaging amalgamation. In fact, we firmly believe that Bill 136 will undermine the smooth transition to amalgamated school boards.

Section 1.04 states that, left alone, occasional teachers could resolve all bargaining unit representation rights and collective bargaining issues under the OLRB, which is the law which currently governs our labour relations.

The government introduced the Dispute Resolution Commission and the LRTC on a hunch that there would be chaos in the collective bargaining regime in the province of Ontario. There is no empirical proof of the need for these acts or the commissions involved. The arbitration process under the Ontario Labour Relations Act has worked for our occasional teachers in Ontario without jeopardizing the public interest. The government has not presented any evidence to show that the process under the Ontario Labour Relations Act will not measure up to the needs of employers and employees in the newly amalgamated boards.

OECTA's analysis proves that 100% of our amalgamated units could resolve any differences of opinion under the current rules, without Bill 136. Our sister unions have told us that the overwhelming majority of disputes which concern their members could also be resolved without the passage of Bill 136.

I'd like to draw your attention at this time to page 14. Table 1A shows very clearly that 70% of the members of the Ontario English Catholic Teachers' Association who fall under the OLRA are employed in boards which are not amalgamating. In excess of 70% of our membership in that area, therefore, don't need any help from Bill 136. Those same percentages also correspond to our teachers in amalgamating boards. So not only those under the OLRA

but also under our current Bill 100 do not require any type of legislation, because they're not amalgamating. These figures show that all labour issues facing our occasional teachers could be resolved under current procedures of the Ontario Labour Relations Act.

I turn your attention at this time to page 17, on which certain recommendations are outlined.

This association believes, first of all, that Bill 136 should be withdrawn. Second, in the event that Bill 136 is not withdrawn, it should be limited to only those school boards which were actually amalgamating and that in those boards the right to strike remain. Finally, in the event that Bill 136 is not withdrawn, it should not apply to occasional teachers.

We have a very serious concern on our hands with regard to the scope. We certainly have commitments from the government about change, but I'd like to bring out another side of the issue here. It's worth noting that occasional teachers are expected to have their representation rights transferred to their five teacher affiliates of the Ontario Teachers' Federation under Bill 160, the Education Quality Improvement Act, which was introduced this week. Today, our occasional teachers enjoy a full scope of bargaining rights under the Ontario Labour Relations Act. That will continue under Bill 136, which we are discussing today. What doesn't make any sense to this association or to our occasional members is the fact that they will lose all those rights when they move under Bill 160 in two years' time.

If occasional teachers deserve full bargaining rights now, why won't they deserve them in two years' time? If occasional teachers deserve full bargaining rights now, why is it that the classroom teachers of the province of Ontario don't deserve those same rights? If you're going to amend Bill 136 to restore the rights of workers across this province, why are you going to destroy those similar rights under Bill 160 for the teachers?

I'd be happy to answer any questions at this time.

The Chair: Thank you very much. We have — a little bit of quick math — about nine minutes for each caucus. We'll begin with the official opposition.

Mr Patten: Good to see you again. It's always under adverse circumstances, though.

Mr Jarvis: Unfortunately, in these days it is troubling times.

Mr Patten: I think your point's an important one. It's the first time I've heard that specific issue, that is, the incompatibility of the two bills as proposed. I suppose in the hearings, if there are any, for Bill 160, that will come up as well. Obviously, those should be made compatible. I think that's one of the functions of legislative counsel, or at least the lawyers in ministries. Somebody's got a function to look at the compatibility and how it impacts on other bills.

Given that we don't have the actual amendments, though — it's another point that reinforces why amendments are so important. While it's true that amendments are not typically presented before hearings, in this instance

the proposed amendments are so substantial that they change the fundamental function of the act.

1620

It may be attempting to address the same purposes, as the minister would say, but we suggest that because it so fundamentally — if you took out from the act what the minister has addressed, you would have wage protection and the pay equity issue. Even the pay equity issue is now on the back burner, or they were not prepared to comment at this time, because they are seeking legal advice vis-à-vis the court ruling.

Your recommendation is that this be withdrawn, and in the event that it isn't withdrawn, that it be limited only to those school boards which are actually amalgamated, and in those schools boards that the right to strike remain. Again, there's some dispute vis-à-vis 160, as to whether that is there or isn't there. We're in quite a quagmire. How do you feel about that? On one hand you're dealing with one piece of legislation that may or may not be granted or re-granted, and in another one we're not sure, but we think it has been taken away. But it's not under Bill 160. How do you feel about dealing with all of these balls in the air when you're trying to help kids learn their studies at school?

Mr Jarvis: Quite clearly, it's very difficult to grab something that isn't there. It's very difficult to comment. As an educator — and we've all been through an excellent education system which exists in this province and continues to. If you're going to argue an issue, you at least have to put it on the table before the people. What I find now is that we have a government which is on face value asking for people to accept the changes it has announced through the Minister of Labour. We would like to do that. We would like to show trust to the government. But you've pointed out an excellent example of where, on one day, a representative of this government has stood up and said that a certain right had been restored, and when you read the fine print in the legislation, there's an overriding provision.

We have an extensive brief before you on Bill 136, but I really don't know what it is that I'm here to speak to, because the government has taken unto itself an authority to change it without sharing what those changes would be. If there is to be established within the labour community a sense of trust in the government, there should be no reason they could not produce and lay before us the amendments they have stated that they would make.

Mr Patten: You are on the record as saying — I forget your exact words, but it's: "Look, we're trying to make the best of a situation to amalgamate the schools and the boards that are affected," and you're suggesting that this legislation should be withdrawn, but if it is applied, applied only to those boards in an amalgamated situation. Are there any boards that are not affected at all?

Mr Jarvis: A significant portion of the separate school boards of the province are not affected. Our current estimation, which is within our brief, indicates that we have 34 boards after the implementation of Bill 104. Boards unaffected by that bill are 21.

Mr Patten: So it's two thirds.

Mr Jarvis: And it's a substantive number. If the bill is aimed at a smooth transition to facilitate the amalgamation of school boards, where is the applicability? Unless, of course, you want to open up collective agreements for a stated purpose, and in discussions we've had recently with the government, the purpose is very clear: It's a fiscal agenda. If that's the case, the government should step forward and put to the people of Ontario what their agenda is.

Mr Patten: I see your point. It's a good one: Two thirds of your boards are not affected by this legislation, yet it applies to everybody.

It seems to me that you've offered a clear position of saying that you're prepared to work with the government on this under reasonable conditions. I suppose that was the rationale for suggesting that the bill is not necessary and it should be withdrawn. Others feel it's an impingement, and some have declared this to be an insult to the integrity of people who are not looking for a fight, who are not looking for ways to muck up the system, who are not looking for ways to get back at the government or anything of that nature. I think the government should listen carefully to that, but I don't think they will. In the absence of that, I think your recommendation on it being applicable only to those boards that are affected by amalgamation should apply. Thank you very much for coming today.

The Chair: To the NDP for questioning, but first, I was in error. I apologize. In front of teachers, my math was incorrect. I have checked; it was seven minutes.

Mr Jarvis: I was going to say, nine minutes was a long time, with three parties.

The Chair: I'm thoroughly embarrassed. I do apologize.

Mr Jarvis: I'm a math-science person, and that wasn't working out for me either, but I was giving you the opportunity.

Mr Christopherson: Thank you very much for your presentation. You state on page 1 — we've touched on this in previous discussions but I want to expand on it a bit. You state in 1.04:

"Without the interference of Bill 136, the parties would have peacefully and expeditiously settled the overwhelming majority of representational and collective bargaining issues, and would have distilled the outstanding issues to a small minority. Under the Ontario Labour Relations Act, these could have been submitted to the Ontario Labour Relations Board for assistance and resolution."

That being the case, would you state again why you think 136 was brought in? If clearly in your opinion and in your experience it was not to achieve the agenda that the government publicly stated, what was the purpose of 136?

Mr Jarvis: If you're asking me for my personal opinion and not the statement or the position of the government, in essence — and I'd like to begin by saying that I think the success of the Ontario Labour Relations Act is exhibited by its resiliency over the years and its ability to avoid conflict. That's a proven fact.

Clearly, from the teachers' perspective, the opening up of collective agreements — and in particular the evidence being in the non-amalgamated school boards — is for only one purpose, and that's to allow access to the contents of those collective agreements. If your clear objective is a fiscal one — and that has been stated on numerous occasions — you must access the collective agreements of the province of Ontario, and therefore every last one of them must be opened up. That is our supposition on this position. However, I would be happy, in a few minutes, to hear from the party in power about how wrong I am.

Mr Christopherson: You won't get that argument from us. That's what we've seen as the agenda from the outset. The government has got certain fiscal goals they have to reach, such as the \$5 billion to pay for the tax cut that most working people are not benefiting much from — a couple of cups of coffee a month — without risking any kind of increase in property tax, education tax. What they've decided to do with 136 was provide a field day for people to go in — who really have no other alternative. Whether they wanted to or not, they're being forced into going in there and stripping collective agreements. I hope the parliamentary assistant is prepared to engage you in that discussion, because I think it would be quite interesting.

Everyone else who has come in and raised the issue of what could or could not be done under the existing Labour Relations Act talked about expediting the process. I explored that a little with Mr Parkin before you, and I'd like to in your case.

Do the teachers want to avoid speeding up processes, for some reason, in front of the Ontario Labour Relation Board? Is there some hidden agenda you have that benefits you and your members to slow everything down? Or are you like every other public sector entity that's been in here, who say, "No, we want the process to work as quick as possible, and if any government is prepared to do that, we'll support it, as long as you maintain the fairness and the neutrality that exists now."

1630

Mr Jarvis: I think there are two components to your question. First, let me deal with fairness and neutrality. That has to be a fundamental principle of any legislation. In terms of the expeditious nature of resolving issues, we're committed to that. As a matter of fact, we have under Bill 100, within the teacher component, also promoted that same concept. There is no benefit to any party to delay the resolution of issues. Certainly it is not the position of this group of professional employees to ever hinder that process.

Mr Christopherson: I suspect that every group that comes forward's going to say the same thing. It makes common sense, quite frankly, because in most cases — not all, but in most cases — the Labour Relations Act is there to help workers and their representatives uphold their rights in the collective agreement. I would think that most of the cases brought forward are generated by the labour movement and they want them resolved as quick as possible. I haven't heard anybody come forward and say,

"We want special treatment, we want special favours, we want you to load up the process in our favour." No, it's, "What we want you to do is make sure our rights are protected through fairness and neutrality, and the quicker you can make it, the better."

It's important that we dispel as much as we can in the short time the government's offered, to knock away the arguments they've given for bringing in Bill 136. They still have to live with the fact that they were prepared to ram Bill 136 through the way it was. They had thought through the principles. They knew the rights they were taking away. They had passed that through their cabinet. I don't know whether they passed it through caucus, but I'm sure they were at least briefed. They were prepared to do that. It's only because of the politics of the situation, the public outcry — AMO went offside; they had a major problem with police and firefighters — that they had no other alternative, when they added it all up, except to back down.

This business of listening: I want to put the same question to you as I have to others. If the government is sincere about saying that the reason they're stepping down is that they're listening and they want to avoid chaos and trouble, could they not have avoided all this trouble if they are willing to accept the alternative approach offered by the OFL and by your organization, if they'd sat down with you before they dropped Bill 136 on the floor of the Legislature? Would that not have saved everybody an awful lot of grief?

Mr Jarvis: The aspect of communication, of reaching compromise, of finding the solutions that will appeal to everyone within a community is a hallmark of any successful government. Obviously, the critical component of that is to do that prior to the introduction of any legislation. The failure of doing that results in a situation where parties are put in difficult scenarios of no one's wish or no one's making. Certainly a great deal of unrest and discomfort across this province could have been avoided had serious contemplation been given to the actual outcomes of Bill 136 in its perhaps former — maybe not; we're not sure — state. I agree wholeheartedly with the fact that we have to discuss before something hits the legislative table.

Mr Maves: Thank you very much for your presentation. With occasional teachers who aren't covered under Bill 100, they're going to be covered by Bill 160. You're saying you don't think they should be moved over to be covered by the same legislation as other teachers, or that the other teachers should have the same right to strike unfettered by the jeopardy provisions of Bill 100? I want to get clear on that.

Mr Jarvis: Let's just deal with a few issues, because you've certainly laid a number of them upon the table. Let's begin by saying that —

Mr Maves: I thought I laid one on, but go ahead.

Mr Jarvis: Actually, you touched on a few, and being a teacher, we'd mark every one.

The issue before us is an interesting one, because what we're saying is this. You can read our previous briefs — I urge you to — on Bill 100. We have always stated that we

believe our occasional teacher members should be part of the school board-teacher collective negotiations act, Bill 100. Bill 100 will apparently cease to exist shortly. That being the case, we are now going to take a group of people who have — I'm going to move off the right-to-strike thing for a minute — a full scope of bargaining which is not subject to regulatory authority by the minister or cabinet. Now all of a sudden we're going to take those people and drop them into a milieu, and a rather messy one at that, under Bill 160 and say: "You used to have unfettered rights to bargain. You used to have unfettered rights to enter into the normal processes in bargaining, which include the right to strike. Now suddenly, two years down the road, we're going to put you in a milieu where your rights are going to be constrained."

All we're saying is, we want them, but we want the same rights as everybody else has in the province. For a government which espouses the fact that they want to stay out of that, that normal labour practices should exist — less government, less intrusion — why are we going through this exercise under Bill 160?

Mr Maves: So you're opposed to the jeopardy provisions that have been under Bill 100? That's what fetters the right to strike that the occasional teachers would have been dropped into. You said you were in favour of that in the past. If they had been dropped into that milieu, then they would have the same fettered right to strike that other teachers have.

Mr Jarvis: Within the context of Bill 100, when the teachers of the province of Ontario and the government of the province of Ontario at that time dealt with the issue of the right to strike for teachers, when it was introduced, there were compromises that were reached. We have lived successfully under those compromises. We were willing to work within the context of that because overall it was a good situation and teachers should have all been under the same bill. The issue you're zeroing in on is one component. Let's talk about the regulations that are under Bill 160 that those people will be fettered by now. I think that's a much more relevant argument, and much, much broader in context and scope than the one you wish to isolate in terms of minutiae. But let's continue the dialogue.

Mr Maves: I didn't mean to do that. I thought that was something to isolate and I was just trying to understand that.

I want to get to another issue before my time is exhausted. You have said that this is going to apply to boards that are not part of amalgamation. I contend that it's not. The section that affects the school sector, if I can read it to you — maybe this needs clarification; I don't know — says, "This act applies upon the assumption by a district school board of the jurisdiction of one or more existing school boards." To me that's a merger and amalgamation. To you that's unclear, I take it. The gentleman beside you is nodding his head.

Mr Claire Ross: I think the point you're trying to get at is the fact that on January 1, 1998, every board in the province, which will now be a district school board, will

be a new school board. As such, the requirement exists that the collective agreements be opened and that all parties enter into bargaining. The point we've been trying to make is that doesn't seem to make much sense. If you're trying to facilitate amalgamation, why would you then apply the legislation of Bill 136 to all boards and require that all collective agreements in this province be opened? Unless, of course, there's something other than the facilitation of the process of amalgamation.

Mr Maves: So you think because they're using the term "district school board" and all school boards now are going to be called district school boards despite whether they've had an amalgamation or not, that means they're covered by the act?

Mr Jarvis: Could you read the preamble just before: Does it say "one or more"?

Mr Maves: That's right: "upon the assumption of a district school board of one or more," so it would have to be one taking over another.

1640

Mr Jarvis: It's the "one or more." Our legal counsel has clearly delineated to us — and if we're wrong, please clarify it for all of us. We have a position from our legal counsel that it will be applicable to every school board. If that's wrong, please, right now, clarify that for me. You are saying, on behalf of your government, that this bill does not apply to a school board which is not in an amalgamation situation.

Mr Maves: That is my understanding, yes.

Mr Jarvis: That is the understanding of you or your government?

Mr Maves: Of myself.

Mr Jarvis: Of you personally.

Mr Maves: If I'm wrong and my lawyers want to tell me I'm wrong — but that's my understanding. Just by virtue of a having a new name, "district school board," that does not apply. It's upon amalgamation of one or more boards. We can get that clarified. That is my understanding of the intent of the application section as it applies to schools.

Mr Jarvis: I'd like to continue this, if I may, for a moment.

The Chair: Very briefly. We'd like to end on a happy note. That would be great.

Mr Jarvis: I'm smiling. I would like to see and read in Hansard where the minister will stand up in the House tomorrow and give that explanation. Then I want it applicable to Bill 160, because that takes out two thirds of our boards as well. And I am smiling.

The Chair: I'm sure someone will be working on clarification of that point. Gentlemen, on behalf of all the members of the committee, we thank you for coming before us this afternoon. Your advice is appreciated.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION

The Chair: I now call on the Ontario Secondary School Teachers' Federation. Good afternoon, and welcome.

Mr Earl Manners: My name is Earl Manners, and I'm president of the Ontario Secondary School Teachers' Federation. Jim McQueen is vice-president of protective services. Bev Wilson is an executive assistant, or staff member, with OSSTF, who is a former office, clerical and technical employee with the Hamilton Board of Education and a member of OSSTF and quite familiar with the Labour Relations Act and its operations and the whole issue of amalgamation.

Let me also say that we appreciate the opportunity, as limited as it is, to be here to talk with you about this piece of legislation.

We represent 50,000 members, 34,000 of whom are teachers. The other 15,000 to 16,000 are educational workers who provide indispensable services to school boards who range from office, clerical and technical employees to custodial maintenance services to education assistants, social workers, psychologists and occasional teachers. All those people are covered under the Labour Relations Act and are affected by Bill 136. They are concerned, justifiably, about the impact that amalgamation and this legislation will have on them, on their basic rights and on their jobs.

Let me also say at the beginning that OSSTF has never been opposed to the amalgamation of school boards, although we would question some of the boundaries that have been created across this province for the public school system. We would also question the fact that the public school system, which represents over 75% of the students in this province, has fewer school boards than the separate and French-language systems, which represent about 25% of the students in this province. We're not saying that to be divisive; we're saying that because it raises a very fundamental question about the commitment of this government to the public education system that it would remove drastically local government from this area of education and less so in other jurisdictions.

Let me also say that while we're not opposed to amalgamation, we and our members expected that the fundamental democratic rights of unionized employees in these school boards would be respected by this government in any transition process and in any applicable legislation. That this has not been the case raises a number of questions both in the minds of this organization and among our members about what the true intentions were of this government with this legislation and with amalgamations and mergers of public service institutions.

We fundamentally believe that amalgamation, new funding models and other pieces of legislation that have been introduced are all designed to move to the privatization of as many public services as possible, and that would also apply to the education system; and to make further

cuts to the tune of \$1 billion in addition to the \$800 million that has already been cut.

Those fears are not just idle. We read recently in the Canadian Jewish News that the assistant to the minister, John Weir, and his parliamentary assistant, Bruce Smith, met with the group that was advocating for public funding of private religious schools and indicated that they had accepted in principle the concept of public funding of other private religious schools and outlined criteria which sounded very much like charter schools and a voucher model of education funding that would apply in that situation. We can supply this hearing with that information if you would like.

Let me go on by saying that we are very concerned that this government has put this entire province — our members, students, parents and the general public — through a very gut-wrenching process that smacks of anti-unionism and created confrontation in our communities that was totally unnecessary.

We hope the announcements by the Minister of Labour just recently will go a long way to reducing that tension, but we do need to see the amendments in writing, and the sooner they are provided, not only to us and the opposition parties but to the general public, the better. Let me say that we welcome in principle the intent of those proposals and amendments in this bill, but we hope our cynicism will not be renewed when we actually see the fine print.

Let me say too, as an opener, that our cynicism can be reduced if you do two things right away: that you restore and make a commitment to restore impartiality at the Labour Relations Board, and you can do that by saying that you will not interfere in labour jurisprudence, just as you could not interfere in criminal or civil law; that you remove criteria that would restrict the independence of arbitrators in the decision-making process; and that when it comes to appointments to the Labour Relations Board, you go back to the practice of previous governments, including Tory governments, that they be based on consensus and that you cease and desist the purging of employees of the Labour Relations Board which took place just a couple of weeks ago.

I would ask you to turn your attention to our brief, beginning on page 3. I'm not going to read it all. I just want to highlight a few pieces.

We indicate on page 2 the statements made by the Minister of Labour and that we welcome them, but we want to ensure that the right to strike is in place and that these rights remain part of the educational sector, as they have been for decades. They have not been abused. I want to say here that it is our intent, as it always has been, to bargain in good faith, even throughout the transition period, towards a fair collective agreement that respects our employees and the services they provide to young people, and we hope the employers would do the same thing. In that kind of framework, we believe there is absolutely no need whatsoever for strikes or lockouts to occur.

The Public Sector Labour Relations Transition Act: There is no justification for removing the right to strike or lockout and referring these disputes to a new government-

appointed commission. It would be inexperienced, it would be employer-biased and it would only duplicate processes already found in the Labour Relations Act. For a government that's as concerned as they say about bureaucracy, they do not seem to be following their own practice. The Labour Relations Board is the quasi-judicial body that is most suitable to deal with these matters during this restructuring process.

If you turn to page 4, I want to emphasize that while we have supported the minister's comments, her reference to a temporary public interest test we would not support. We do not believe it is necessary and it would just be a further intrusion on free collective bargaining. We urge you to leave the process alone, unimpeded by external constraints, and let the parties come to their own resolution.

1650

As I think I have mentioned, we believe the creation of the Dispute Resolution Commission is totally unnecessary, that the Labour Relations Board can handle most of these matters. This commission, if it does go forward, even though the minister says it's going to be eliminated, would go forward without regard for even minimal standards of natural justice and due process. Even opportunities to make presentations like the one to this hearing and to this committee would be denied under the current legislation. The whole concept of impartiality and neutrality is central to dispute resolution, and that's been thrown out the window with this bill. I want to emphasize again that we remain opposed to any fettering of the arbitrator's ability to make decisions in the best interests of the parties and the public.

The Labour Relations Transition Commission and the Labour Relations Board: We cannot understand why there should be a need to create this commission. It's a parallel body to the Labour Relations Board. As I said earlier, please say now that you have confidence in the Labour Relations Board and that you will respect its impartiality, and that will go a long way to reducing some of our cynicism.

On pages 6 and 7: OSSTF is in support of the proposals put forward in the OFL brief that has been presented to the Premier and to the Minister of Labour. We have listed again for your information many of the items and alternatives that were proposed in that. I want to let you and everyone in this room know that we support those positions as outlined in that brief. I will not go through them again at this time.

I would like, however, to turn my attention to the issue of pay equity, an aspect of the bill that does not seem to be related whatsoever to the issue of amalgamation or mergers. You will find some of our positions on pages 8 and 9 and some proposals we have.

We believe the amendments or the changes to the Pay Equity Act which form part of Bill 136 should be scrapped. It's patently discriminatory that all other employment obligations by predecessor employers should be passed to successor employers under this legislation, with the exception of certain pay equity obligations. Proposed limitations on retroactivity reward employers who have

been in non-compliance with the Pay Equity Act and must be removed. Once again it seems this government's concern is only one of cost and not of fairness to employees.

OSSTF would urge the government to drop these proposals, which I believe violate the spirit of the current Pay Equity Act and, if a recent judgement by the courts is any indication, may indeed violate human rights provisions of this province.

In conclusion, OSSTF, like other public sector unions, understands and appreciates the government's concern that the restructuring and amalgamation of school boards that lies ahead proceed as smoothly as possible. That is our intent as well. This legislation, though, is hardly the way to go. We believe that the proposals of the Ontario Federation of Labour herein referenced provide reasonable alternatives to the unnecessary, and I would say repugnant, processes outlined in Bill 136. We would urge you and the committee to support the minister's proposed amendments to Bill 136 and give consideration to the various concerns and suggestions raised in this submission as well.

I hope there's time for questions.

The Chair: There is. Thank you very much. We have about five minutes remaining for each caucus. We'll begin with the NDP caucus.

Mr Christopherson: Thank you very much for your presentation. I appreciate your coming in on extremely short notice, especially when you're asked to comment on something you haven't yet actually seen, other than just a few words here and there.

Mr Manners: It was difficult.

Mr Christopherson: I was interested in your opening comments. I'm sure you'll note that Mr Smith is here with us today, and I'm sure he'd be eager to respond to your concerns around the public funding of private schools, the privatization of our public system, whichever way you want to put it, and the possibility of moving to a voucher system. I'm sure he'll be prepared to clarify that for you, because he's next.

I've heard the government members, when questions have been asked in the House, deny, through heckling and comments, that they have any intention at all of taking \$1 billion out of the system. We, of course, like you, contend that is the case. Can you give us your reasons why you believe that the government's agenda is to extract another \$1 billion out of the education system of this province?

Mr Manners: Through Bill 136 we believe they are paving the way, through the funding model, to lowering standards and costs for basic support services for education. Bill 136 would then force employers — school boards — to contract out services like custodial maintenance and office and clerical services, because the government will set minimum standards, and by using these new commissions and these new unilateral powers it would make it much easier to do so and therefore, by reducing the wages of some of the lowest-paid workers in our education system, save the government money in terms of transfers and grants to those school boards.

In addition, if you look at the parallel legislation that's been introduced governing teachers, you can see that the toolkit that the minister had to withdraw just over a year ago is alive and well, but just under different legislation and someone else now is responsible for the tools: That is the Minister of Education. It was clearly stated then that it was designed to reduce costs, and I think the same would apply. When we were briefed by the minister's officials a few weeks ago, they said they were looking for \$1 billion and that they had to balance their budget before they went back to the polls. This was crass politics they were engaging in.

Mr Christopherson: That's pretty clear. I'll be interested to see if anybody wants to take up the challenge that that indeed is not the case, in terms of the government's response next.

I don't know if you were here for the discussion with Mr Parkin of the Amalgamated Transit Union. I want to bring to your attention that on page 2, where you mention that the functions and responsibilities of the proposed LRTC be moved over to the OLRB, Mr Maves commented at the time that the OFL, on behalf of all public sector unions, requested that all that was supposed to go into the commissions would now go into the OLRA and the board would be the one to decide. You might want to be very cautious and very clear, when you mention on the top of page 5 about the independent and impartial interest arbitration, and on the previous page the whole concept of impartiality and neutrality, that just shifting the powers that were going to be vested in the commissions into the Ontario Labour Relations Act holus-bolus in no way satisfies or meets the criteria that the OFL put before the government in terms of alternatives. I'm a little concerned that it looked as if he was attempting to play word games. I'm a little concerned now, until I hear it totally dispelled, that that's exactly what they're going to do and they're going to say, "That's what the OFL asked us to do."

It's my understanding from ATU, and I'd like to hear from you, that yes, you were seeking for the expeditious nature of what they were trying to achieve to be done through the OLRA and the board decisions, but it was the impartiality and neutrality and fairness of the board and the act that you wanted to preserve. That stuff has to be jettisoned. If it's carried over, the government has not met its publicly stated purpose, which is to back away from these horrible taking away of rights. Your thoughts on that.

1700

Mr Manners: I would agree with your statement. That's why I opened my comments by saying that while we appreciate the amendments and statements made by the Minister of Labour in the House last week, they don't go far enough. There needs to be a statement by this government and by the Minister of Labour unequivocally that they will respect the Labour Relations Board, its neutrality, its impartiality and its independence; that they will cease and desist from hiring and firing procedures that are not based on a consensual model; and that they will remove the criteria and powers that were given to these

commissions that are arbitrary and above the law and force arbitrators to act in a way that is not neutral or independent or in the best interests of the parties. They had to go. You can't just hand things back over to the Labour Relations Board and then create it in the image of something that was repugnant in the first place.

Mr Christopherson: I hope we get that clarified during the Tories' turn, which is up now.

Mr Hardeman: Thank you, Mr Manners, for your presentation. I appreciate the conclusion of your presentation. We recognize the difficulties that exist. Your commitment is that the proposal put forward by the federation and the amendments the minister proposed to accommodate that are a step in the right direction, and that you're looking forward to working with the minister to implement that.

I've got a couple of questions. Part of it is from a previous presentation from the Catholic teachers, as it related to the occasional teachers and their inclusion in Bill 136 and then the transfer to Bill 160. I want to make it clear that I'm not here to discuss Bill 160, but their concern was that that shouldn't be done, yet I didn't get any clarification as to what should be done in that case. Should the occasional teachers be removed from here and put into the other legislation immediately, or should they stay separate? Have you got a position on that that you could help me out with?

Mr Manners: Yes, we do. The history of this is that we won an arbitration award many years ago, under a former Conservative government, that said occasional teachers were teachers. While the former government recognized that, they separated them under legislation and put them under the Labour Relations Act and forced us to go about organizing them under that act and representing them through a different collective bargaining process. We've always felt that occasional teachers are teachers as defined under the Education Act and that the merger of that bargaining unit with the teachers' bargaining unit was in the best interests of education. What legislation they are under is immaterial. We believe they have a common interest.

Mr Hardeman: The other issue was the issue of the right to work stoppage. In Bill 100 now, if the students' year is in jeopardy, the minister can, through the Legislature, order teachers back to work, and that reappears in the one area but not in Bill 136. For my purpose, to understand it, is that something new? First, your comment that the right to strike is there and then it's not: Was it your position that should also be removed?

Mr Manners: If you're saying does jeopardy apply to occasional teachers, I don't think it applies, because you're dealing with a small number of people in a school in any particular situation. Whether there are two separate bargaining units or one bargaining unit, jeopardy is not an issue with respect to occasional teachers. Are you asking as well about the future of jeopardy and the ability to make that decision?

Mr Hardeman: Yes. Your suggestion is that that should disappear. Or do you think that's a worthwhile safeguard to —

Mr Manners: The Education Relations Commission is another quasi-judicial body, like the Labour Relations Board, that you're eliminating. If it were independent and unfettered and impartial and neutral, like it has been in the past, we could respect the decisions of such a commission, because they would be based on the best evidence in front of them. We have not had problems in the past. It has only been when government has interfered with the proceedings of this quasi-judicial body, like we found last year with the Minister of Education and the Lennox and Addington dispute, that problems arose.

Governments have always had the right to legislate groups back to work. Whether they use it or not is a decision that is made by them at the time; sometimes it's politically motivated and sometimes it perhaps has not been. But the process we've used in teacher bargaining so far has tried to remove politics from those kinds of decisions.

Mr Hardeman: One further question. You made the comment that an arbitration process should be in the best interests of the parties and the public. Do you not see some types of criteria for arbitrators in terms of how you define the interest of the public as a helpful tool for arbitrators as opposed to an arbitrary tool?

Mr Manners: We're dealing with the public sector here and we're dealing with freely elected governments, whether they be municipalities or hospital boards or school boards, and they are representing the interests of the public and they are making decisions. To suggest that arbitrators need other criteria to represent the interests of the public I think is suggesting that you have no confidence or faith in local government.

Mr Jim McQueen: The other point is that you can't predefine public interest. Public interest varies from situation to situation. If you attempt to come up with some list of criteria, it's not necessarily going to be applicable to a given situation. The situation has to develop first, and then a determination has to be made in relationship to public interest.

The Chair: Mr Patten, you're next.

Mr Patten: Chair, I wonder if you could alert me when I have a minute left. I would like to give it to Mr Smith to give him a chance to respond to the information that was suggested. I request that you share that information with the committee; then we'll have a chance to look at it.

Mr Smith: I will.

Mr Patten: As I think you're well aware, you're not the only one who feels that there's tremendous sympathy for charter schools and privatization and other sorts of private arrangements in the educational system.

I would like to go back to the Labour Relations Board and what the minister said yesterday. I don't know if you caught her remarks here in her presentation. We believe it's going to be whatever powers and criteria were to be used at the transition commission; that those are shifted over fully. I asked her that question yesterday; I won't get into my question, as it was a little long. I asked, "Is that as

the Labour Relations Board is now structured?" She said, "Obviously, the Labour Relations Board will need to be given some additional resources" — fine — "and some additional powers." So there will be some slight changes there. I'm not sure how slight.

My colleague Mr Hoy asked later on, because he wanted to try to get to the bottom of it, "What will change if you pass this over to the Labour Relations Board?" The minister said, "The majority of provisions will be transferred to the Ontario Labour Relations Board." Mr Hoy said, "Including the criteria?" The minister said: "Including the criteria. The criteria will be there." Mr Hoy said, "So maybe it's not quite the changes that you proposed a day or so ago." She said: "It's the same. I've always indicated that the provisions of the Labour Relations Transition Commission would be transferred to the Labour Relations Board."

I can share the transcript with you. It seems to me that the only change is in not using one new body but transferring it to the others. I also suspect, frankly, that there will be a new structure with the Labour Relations Board. The characters who are going to run the transition commission are going to be passed over under the guise of the labour board and they will be operating just as they were before. What's your reaction?

1710

Mr Manners: If that's the case, then nothing's changed and the Minister of Labour has deceived the public about what their intentions were. We said we would put our trust in the Labour Relations Board because we felt, based on past practice, that it was neutral and independent and did not have arbitrary powers. People appointed to that board were based on a consensual model of appointment where unions and employers had to have an agreement on who was there, and their powers were unfettered in that they could make independent decisions in the best interests of the parties. It was believed that those decisions would also, in the long run, be in the best interests of the public, because these arbitrators, these judges, were making decisions based on past jurisprudence, past practice and considerations for the future.

If this government is going to interfere in the judicial process, that is as wrong and undemocratic as their trying to interfere in a criminal justice or a civil law case, and they should not do that. If they are going to give powers to the Labour Relations Board that would allow them to interfere that way or for the board to act in an unneutral way, what they will have done is to compromise a long-standing judicial body that has the respect of both labour and management.

Mr Patten: I agree. I believe that's one of the motivations for why the government is not tabling the amendments at this point, so we could see what has been changed in the transition, transferring that power, and the impact it has either on the Labour Relations Act or the particular criteria that the Labour Relations Board will have to live under. There's a big cloud hanging over that. Every group has mentioned that it is not easy to respond

until you actually see the amendments, amendments that highly essential and significant to this act.

Mr Manners: We have to see the amendments. My vice-president just sent a note to me saying that the minister, in her press conference, denied there would be any attempt to get things through the back door. If they try to impose the criteria and the powers on the Labour Relations Board, that's both a front-door and a back-door attempt to carry on Bill 136, as it were. That is not our expectation when we say we support in principle the announcement she made the other day.

The Chair: With that, thank you.

Mr Patten: That's it? I was going to offer Mr Smith — you were going to alert me when I had a minute left.

The Chair: Sorry; I forgot. On behalf of all the members of the committee, thank you for coming forward this afternoon. We do appreciate your advice.

Mr Manners: Who do I send that article to?

The Chair: You can leave it with the clerk and we'll make sure it's copied to all members of the committee.

LABOUR COUNCIL OF METROPOLITAN TORONTO AND YORK REGION

The Chair: I now call representatives from the Labour Council of Metropolitan Toronto and York Region. Good afternoon, and welcome.

Ms Linda Torney: My name is Linda Torney. I'm the president of the Labour Council of Metropolitan Toronto and York Region. I'm here by myself today because my executive board is meeting tonight and this was the only time slot I could get. I have my vice-president running the meeting until I can get back up there. That leads me to my first comments, and that is the speed with which Bill 136 has been happening.

First of all, I must apologize for the wrong name of the committee on the title page. The reason is that when we heard there was to be a committee, we phoned and asked what committee it was. This is what we were told, and that was really the only word we got until last night, when I received a call that I had two options to be scheduled, both in the middle of my executive board meeting. I apologize for the wrong name, but I hope it won't influence the fact that I would like to make the deputation to this committee, whatever it is truly called.

The Chair: I can assure you we take no offence. We're glad you're here.

Ms Torney: Good. First of all, we are a chartered body of the Canadian Labour Congress. We represent about 180,000 workers from all sectors of the economy in Metro Toronto and York region. Many of our members are directly impacted by Bill 136, but all our council members, regardless of the sector, are unanimous in their demand that this bill be withdrawn.

Please let me first say that I understand — I have read the minister's statement from last week about 14 times actually, so the situation appears to have changed between when we began this brief and now. I am, however, very unclear as to how it has changed, how much it has

changed, whether enough of it has changed. When I came in, I was handed this, which may give me some answers — I don't know — but there was hardly time for me to read it between 15 minutes ago and now, so I'm going to continue with my remarks based on our position as it was a week ago — as far as I know, that is what it still is — and that is that Bill 136 should be withdrawn.

We took a bit of a different approach to this. I mentioned the incredible haste with which this is being enacted. We're becoming a little used to this, in some ways, with this government, so suspecting that we would not get sufficient hearings on Bill 136, we did something a bit different this time. Our labour council held two days of people's hearings, one in York region and one in Metropolitan Toronto. We invited people who wanted to be recorded in opposition to Bill 136 to come and meet with us and table their briefs, written if possible, but verbal if not, and we would undertake in one way or another to get them to the government. We said we would either do it through standing at this committee, if we achieved standing, or we would do it by asking somebody else who had standing, or if that failed, we would simply bring them down and deliver them; but one way or another, we undertook to get them there.

We have not had a great deal of time and were very limited in staff to put this together. I would have liked to have been able to give you an index of presenters; I was unable to do that. The best we were able to do was photocopy the written briefs that were presented to us, to do the best we could to transcribe the verbal presentations from a tape recorder — not verbatim by any means, but I can assure you that we did capture the intent and the meaning of what people said — and to pull out a few quotes.

We have prepared packages of the briefs that were submitted to us in writing, including summaries of verbal comments that were made. There is a package for the Chair and for each of the caucuses, and that was the best we were able to do. I certainly hope people will take the time to read them, since the people took the time to present them to us and we took the time to pull them together and bring them down to you.

I will begin by summarizing some of the content of the presentations. I hope you will take the time to read them. There were some common themes which certainly emerged. First of all, there were issues of democracy. I would say the majority of deputants made some reference to this, both in the content and in the process, the process being the speed, the process being the lack of time to really absorb anything or see anything, and the speed with which it was going through.

Both union and non-union presentations alike remarked on the total control by the government over the mechanisms in Bill 136 as we knew it, the lack of any union representation or consultation, or in fact rights, that seemed to be in the 136 they saw. In general, they saw this legislation as totally lacking in any fairness towards unions or union members and spoke of it as a violation, not only of past precedent in labour relations matters, but a violation of principles of natural justice.

Some made specific references to the inability of unions to have a say over the appointment of arbitrators or various other parts of it, and many made references to anti-democratic practices of the government in the past. In fact, a lot of people compared this legislation with other pieces of legislation that have already been enacted. Most, of course, linked it with what we then didn't know the content of, the impending teachers' legislation, and what we then did not have a number for. It was linked to Bill 26, which some people pointed out set the framework for some of the stuff they saw going on now, and it was linked to Bill 142. I will spend a little more time on that, because I think that's important.

Clearly, people did not see this as a standalone piece of legislation but saw it as a mechanism for accomplishing a larger agenda. People link Bill 26 and the megacity. Of course that's an obvious comparison, because you have Bill 136, which is doing something to workers' rights, and you have the megacity, which is enforced legislation to merge the cities in Metropolitan Toronto. Both union and non-union presenters believed this legislation was intended to remove worker protection in the interests of creating a low-wage labour pool through the gutting of collective agreements. Non-union deputants in particular felt this legislation was intended to weaken unions so they would be unable to fight for social justice issues. I thought that was a very important comment that some non-union deputants made to us.

1720

Particular reference needs to be made to Bill 142. One deputant referred to Bills 142 and 136 as the "evil twins," one half of which was to create low-wage job ghettos in the public service and the other half of which was to slash welfare benefits and force recipients into cheap-labour workfare arrangements in jobs previously held by public sector workers.

Overwhelmingly, people said that Bill 136 was unnecessary. Union members who spoke to us said they saw no need for it whatsoever. I should stress for you that most of the union members who were speaking to us were not negotiators for their unions; they were not legal counsel for their unions; they were, for the most part, rank-and-file trade unionists. They may well have been local presidents. They did not have the sophistication of the people who often are at the bargaining table in a spokesperson way, but they referred to what they had been through as unions. Most of them pointed to a long history of negotiations with their employers where issues were resolved without need for work action. Several said it had taken years to establish the working relationships they currently enjoyed, and that far from creating labour stability, Bill 136 would damage the stability which already existed in their workplace.

In addition to mergers already completed, some pointed to previous contentious issues, such as technological change or downsizing, which had been resolved without any need to resort to a strike or a lockout. One union was involved in innovative joint experiments in service provision with their employer and predicted the loss of a fa-

vourable labour relations climate which allowed this to occur, should Bill 136 be enacted.

There were fears for future instability. In addition to the views of public sector unions and members about the fear of instability, we heard from some private sector workers who believe that Bill 136 is a precursor of legislation to come that will be aimed at the private sector.

In general, all the deputants saw Bill 136 as only one piece of the puzzle, and all expressed suspicion and cynicism regarding the true intent.

Loss of public services: Union and non-union deputants alike believe that the government is headed towards mass privatization and further downsizing in the public sector. Here, the strongest links, I suppose, were made between Bill 136 and other pieces of the agenda.

A combination of downloading of services on to already stretched municipal budgets, in combination with the gutting of collective agreements through Bill 136, caused most presenters to predict elimination of some public services, institution of fees for service and, particularly, privatization.

People mentioned the loss of public control of service delivery, should privatization occur; the inaccessibility of public service to those who most need it in the event of fee-for-service delivery; and the creation of a two-tier system and the resulting entrenchment of a have/have-not society.

People talked about the current deterioration of service. I want to spend some time on this. If there is one group of people that I wish you had been able to hear for yourselves, it was those public sector workers who were simply rank-and-file workers who came and spoke with us. Without exception, they spoke to us about the loss of quality of service already being experienced. We can't possibly reproduce for you the impact of hearing those testimonies. These workers put their client group first, above all else, and they're proud of the quality of service they have in the past been able to deliver. They see their work as contributing in meaningful ways to the quality of life of which we are proud in this country.

Now they see their ability to deliver being eroded, sometimes on a daily basis. They are working as fast as they can work, for longer hours than are sensible for either themselves or their clients, and they feel they are failing, no matter how hard they try, to live up to the high standards they have set for themselves.

For these workers, Bill 136 adds insult to injury. They feel the government has no respect for the service they provide and places no value on the work they do. They resent the extra effort it takes to fight off an attack on their rights as workers and the rights of their union when they are already struggling desperately to fulfil their responsibility to the people they serve.

Pay equity was a common theme. The inclusion of a section in Bill 136 reversing pay equity decisions was mentioned by a number of deputants. This section of Bill 136 is seen as a direct attack by the Tory government on women and a clear statement that this government has no commitment to equity. One deputant referred to this gov-

ernment as misogynist in its attitude towards women. Others spoke of the public sector as the largest single sector where women, people of colour and immigrants could find employment with decent wages and working conditions and wondered why this particular section was included in Bill 136 at all.

The employee wage protection plan: Like the references to pay equity, deputants wondered why this found its way into the act at all. In the first place, it is seen as a clear and further violation of the rights of workers who have found themselves out of work with money owed to them by an employer. In the second place, like pay equity, it seemed to have little to do with the bulk of the content of Bill 136. One deputant mused that Bill 136 seemed to be the government grab-bag for every regressive piece of legislation which had not yet found a home elsewhere.

The ability to pay and other arbitral encumbrances were mentioned by a number. The encumbrances placed on arbitrators by Bill 136 were seen as a complete joke by those deputants who referred to this area, and there were several. One union negotiator stated that he didn't remember, in all his years at the bargaining table, the employer ever admitting they did have an ability to pay. Sometimes they meant it and sometimes they didn't. To place such a restriction on arbitrators is laughable.

Summary: Of the some 50 deputants we heard overall, the positions were unanimous: There is no need for Bill 136, it is a violation of the principles of democracy and of natural justice, and it should be withdrawn. People saw it variously as dangerous to democracy, to public service delivery and to the existence of a free trade-union movement. Public sector workers saw it as an insult and an indication of the lack of value placed on them and the work they do.

I have provided a summary of some of the quotes. Some are from the documents, some are from the verbal presentations and some are in response to questions various panellists we had through these two days asked those members. I'm not going to take you through them. I do, however, want to point to something which leapt out at me. It's on page 3. These are positioned together in the quotes and they in fact did come back to back with each other.

One is by Wynne Harvicksen from UNITE, who said: "I am a young worker. With this government I find I can wake up one morning and find I'm without protections that have been there all my life." The next deputants were Tony Michael and another person from the Ontario Federation of Union Retirees. In response to a question, Tony said: "We seniors look back over the progress we made and the social safety net we were able to help put in place, only to watch it disintegrate. It is breaking our hearts."

If I could leave you with one thought before I close my comments, it is that I really sincerely wish you had had the opportunity to hear all these 50 deputants. Some of them you may get a chance to hear, because I know that some of them were seeking standing. Whether they achieved it, I don't know; I haven't had the ability to check that. So there may be the odd duplication between the briefs we

have submitted to you and those you will see in these committee hearings. But for most of them, I know they would either never get standing, with only four days of hearings, or in some case, quite frankly, they would be too intimidated by the process to come and make those statements directly to you. We've got something like 14 hours — no, we've got more than that, more than 14 hours of tape recordings. If I had more than half an hour, I might have been tempted to plunk the tape recorders on and get you to listen.

The Chaves: Thank you very much. We have about four minutes per caucus. We begin with the government caucus.

Mr Maves: Thank you very much for your presentation. I have the briefs you have. I notice that just about every single brief presented was from someone representing a union, not every single one, but for the most part.

Ms Torney: There are some, yes.

Mr Maves: I don't see one in there from a local hospital board or a local school board, a local council.

Ms Torney: No, and we were quite upfront about that. We did not solicit deputations from people who might have been in favour of Bill 136. We understand the Ontario Hospital Association is. We figured that those people had the ear of the government. The people we were seeking the opinions from we thought likely did not.

1730

Mr Maves: But even our public hearing process is slanted against the government. Presenters are usually two thirds opposed, because each opposition party usually selects a third and government selects a third. It's slanted, but at least it's two thirds and a third. Those people on the school boards and hospital boards and municipal councils represent people too. It might have been helpful to have that balance in your hearings. But I understand; that's fine.

One of the things you say in here is, "Many people pointed to a long history of negotiations with their employers where issues were usually resolved without the need for work action." Are you aware that if that's the case — my own city council said, "We don't want to use Bill 136." If my municipality was involved in an amalgamation, they wouldn't get a chance to use Bill 136. If they didn't want to use Bill 136, wanted to collectively bargain and get agreements with their unions — that was their expressed intent — they have every opportunity to do so. There's absolutely nothing in Bill 136 that would apply to them if they wanted to negotiate incumbents' outcomes. If there are other people out there who have had that same experience — there was always this feeling they would automatically refer everything to the commissions.

Ms Torney: I think that's best answered by referring you to the comments that I believe were made from the deputant of CUPE 43: "Clearly the right to strike is a deterrent and forces both sides to behave responsibly at the table. The fact that an employer knows that a union (a) has the right and (b) will use that right if necessary tends to make the employer responsible." The fact that these public sector workers care about the people they serve

means that they too use the right responsibly. That's why there have been so few strikes in the public sector. But to remove the right and to gear the process so that all the power is in the hands of the employer automatically destroys that relationship and destroys that balance. There are employers, many of them, who would take advantage of that situation.

Mr Maves: That's fair enough, even though some have come out and said — and these people's employers seem to want to collectively bargain everything. You think that would just change their mentality and they would just refer everything.

Ms Torney: I don't know about mentality. I can tell you that I'm well aware of the Association of Municipalities of Ontario resolution, yet I now hear the spokesperson for AMO pounding the table on the other side. I might add this surprises me, since I come from an organization and a movement where, if my organization passes a resolution, I am obligated, as the spokesperson for that organization, to express that. But I guess a different set of rules applies on the other side. Therefore, since we obviously don't work by those rules but try to work by democratic rules, the balance of power has to be maintained so that some issues of democracy continue to express themselves.

Mr Patten: Thank you. This is a lot of material which we haven't had a chance to read, obviously, but that's a tremendous effort you've gone to, to ask people to comment on this legislation. We will certainly go through it.

I agree with your analysis, but one of the tragic parts, as you point out, is the tremendous insecurity this has caused. If a simple initiative had been made up front, at the beginning, to say: "Listen, you can appreciate that we have amalgamations. You may not agree with it, but we're going ahead with it, and we want to work with you on making sure that we have the fairest arrangement for everybody concerned, in the most expeditious way possible" — "expeditious" is the word the government likes to use.

When you look at the premise of the original bill — and there's some movement and backing off, according to the minister, although a number of people are not sure about it — and look at the evidence, it doesn't seem to be particularly strong; I suppose there are some isolated instances where somebody could make the case that you'd need this. It's a negative assumption about workers and the employees which doesn't seem to be able to be substantiated by the government.

In all these major pieces of legislation — you talk about the evil twins. One would have to conclude, using the most objective terms, that for every piece of legislation, when you look at why it is being introduced, it comes down to money. It comes down to the provincial government limiting the resources of these employer groups — municipalities and hospitals and school boards, whatever — limiting their resources and placing them in such a position and then providing a tool that many of them don't want to use but I believe will be forced to use because at the end of the day they'll feel responsible that, "We just have to protect some of the services." As you stated, I

believe they will have to cut services at the end of the day, and that will affect people in the community and taxpayers. For me, you've made the case very articulately.

Did you hear the minister's statement yesterday on the pay equity arrangement?

Ms Torney: No, I did not.

Mr Patten: Depending on what side of the fence you're on — the minister said she would hold off on whether they would proceed with this section, given their review of the judgement that essentially said —

Ms Torney: The SEIU judgement.

Mr Patten: That's right. That essentially said it was illegal. We'll have to see what happens there.

In the absence of the government pulling the bill — I think it's only happened once in the last 10 years that a government has done that. You didn't address the Labour Relations Board, for example, in its new role. What's your view of that?

Ms Torney: There are references to that in some of the briefs people presented. We undertook to try and get a good representation of what people were telling us. We knew there would be other people here who would be making cases, who knew the legalities of the situation far better than we do. I used to negotiate, in both the private and the public sector, but it's been 10 years now and I'm a little rusty, so I like to leave kind of the nuances of what's going on at the labour board, because I'm sure things have changed in the years since I've been doing it.

We thought that rather than concentrate on that, we would try somehow, to the best of our ability, to get across to people exactly how people were feeling about this. I've done the best I can with it; I don't know whether I've been successful. But I can tell you that for women especially who work in the public sector, who saw the pay equity, who saw what was happening in terms of the merger of hospitals — one woman presented to us who worked in a hospital. She was beside herself with shock at what was going on in the system, at what they were putting up with and her attempts to deal with her patients daily, ever under increasing stress, and now to be hit with that — she said, "We have forgone wage increases for six years now in the interests of cost effectiveness, so for the government to say we need this, they have their nerve."

People are really hurt and angry by this. You're right. I don't know where we sit with the thing. It seems to me, from all the various pieces I'm hearing, they might as well withdraw the entire bill. Why put us through this? Just withdraw the thing. If I hear, "This is going to change" and "That's going to change" and all the rest of it, just get rid of it. And then the shame, of course, is, why did they have to put people through all this heartache?

Mr Christopherson: Thank you very much, Linda; an excellent presentation on behalf of the largest labour council in the province. I'd like to congratulate you on your people's hearings. It's certainly the closest thing anybody's going to get to a fair and democratic opportunity to have a say. I would also support the process you followed.

1740

It's interesting. The first group that we heard from this morning was the Canadian Federation of Independent Business, which, as you know, is very pro the Mike Harris agenda. They talk a lot about their polling results, and that is very much what they convey when they come forward. That's fine, but certainly they don't — and no one expects them to — poll the unions that may or may not be in those workplaces. They're there to represent the employers, and that's their right. Your job is to represent these workers and convey the message and opinion and needs of those representatives. I think the parliamentary assistant is way off-base to suggest that somehow your presentation is skewed because you don't have the opinion of organizations like the Canadian Federation of Independent Business. That's not the way a pluralistic society works. We're the ones that are supposed to be fair, at the end of the day, and arbitrate between conflicting interests.

Second, you mention on page 3, "Several said it had taken many years to establish the working relationships they currently enjoyed, and that far from creating labour stability, Bill 136 would damage the stability which already existed in their workplace." The parliamentary assistant would suggest that if that's the case, nobody needs to worry about Bill 136 because they don't necessarily have to use it.

Like you, I'm a little rusty, but I've negotiated a lot of collective agreements in my history too. I can tell the parliamentary assistant and the government members who have never been to a bargaining table that the relative strength of each other, should you have to go into the ditch, is one of the key motivating factors as to whether you reach a collective agreement without any kind of labour action. What this government has done, of course, previously and with Bill 136, is tilt that in a huge way. I would support the comments contained in there.

Interestingly, I think you're the first one so far who's raised the issue — you heard from the private sector workers who believe that Bill 136 is a precursor of legislation aimed at the private sector. Just take a look at a couple of the private members' bills and resolutions that were floated in the House not long ago. Those were attacking the Rand formula, clearly the foundation of the modern-day labour movement as founded by Rand back in 1946. Scabs are now legalized. They've watered down the relative strength of unions in a lot of the clauses in the Ontario Labour Relations Act.

Ultimately, I think the government is trying to set up that scenario, where employers can come to a future — they hope — Tory government and say: "Look, we've got and imbalance here. In the public sector, they don't have nearly as many rights, but we have to hassle and take on these unions that have all these powers. You've got to level the playing field." You and I both know that when this government levels the playing field, they always hit the lowest common denominator they can. So clearly, this is a tee-up to that.

You were asked about pay equity. In terms of pay equity — and I won't get into details, because like you,

I leave that to experts; this stuff is complex — and the employee wage protection plan, is there anything you can think of that would suggest how the attack in those two areas has anything to do with Bill 136 and the premise the government offers for why they've put it on the floor?

Ms Torney: If the premise that has been offered is the correct one, no I can't. My own feeling and that of the people who spoke to us is that there is much more behind this than the stated so-called stability. It's fairly obvious, isn't it? It's back to the low-wage labour pool, and that level playing field is the race to the bottom. That's what people think is happening.

Mr Christopherson: It is, because the government, when we ask them any questions in the House, certainly when we ask the minister about the employee wage protection plan, she stands up and says nobody else in Canada has it. Well, it wasn't that long ago in Ontario that we took a lot of pride in the fact, being the largest province and the strongest economically, that we would be the most progressive and we would lead the way, rather than chasing after the weakest legislation that exists for working people and try to match it or, worse yet, get underneath it. That's exactly what they offer up. For the deputants who made that suggestion to you, it can be supported with comments in the Legislature, in Hansard, that that's what they're doing.

Ms Torney: To finish with one personal comment, since I've got your ears, speaking as a woman, I can tell you how personally angry it makes me that it's just: "Let's get rid of the rest of the pay equity that women fought for so long and so hard over the years. Here's something we can get rid of. Let's throw it in here and get rid of it." It makes me personally angry.

Mr Christopherson: In the name of a female minister, I don't think she personally should be let off the hook for that either.

Ms Torney: I agree with you.

The Chair: Ms Torney, thank you very much. On behalf of the members, we appreciate your coming before us this afternoon.

EMPLOYMENT STANDARDS WORK GROUP

The Chair: I now call representatives from the Employment Standards Work Group. Good afternoon, and welcome.

Ms Shelley Gordon: Thank you. I'm Shelley Gordon, with the Employment Standards Work Group. With me are Consuelo Rubio and Rosario Fuentes. I imagine you are all anxious to get through this. We don't have a long presentation and we're only going to address one aspect of Bill 136, I think one that hasn't been talked about very much, which is the employee wage protection program.

The Employment Standards Work Group is a coalition of more than 30 community organizations in Metro which serves unorganized workers, non-union workers. Many of them are immigrant service organizations. We deal with assistance and legal representation on employment ques-

tions, human rights, occupational health and safety, and advocacy and support for workers with employment issues. I just want to draw your attention to the fact that we're talking about unorganized workers.

I don't know why this plan to kill the employee wage protection program is in Bill 136. I don't know if I am allowed to ask questions as well as answer them following the presentation, but I would be quite interested in that. The employee wage protection program is not something that is needed by public sector workers generally or by unionized workers probably ever, and unless in the transition we're going to have some public sector employers who don't pay their employees when they close, it still won't be part of the public sector transition.

I want to make sure you all know what the employee wage protection program is. I've just been having a quick look at your Hansard from yesterday. Mr Christopherson said it was his government that brought it in. I don't know if you remember a very well publicized factory closing called the Lark case, where 300 largely Chinese-speaking garment workers showed up at their factory one morning and the gates were just shut. That was it. They were all owed thousands of dollars. They stayed together and worked together to try to get their money. That was before the employee wage protection program, so they tried to go after the directors themselves. It took four years, because there were several appeals in the courts. They were actually finally successful in recovering some of the wages owed them from their directors.

Meanwhile, those same directors had opened and closed two more factories, leaving two more subsequent groups of workers in the same position. That was one of the impetuses — is that a word? — for the employee wage protection program. At that point, if you showed up to work one morning and your workplace was closed, you were out of luck, or, if you successfully made a claim for wages owing through the ministry and your employer simply refused to pay, you could be out of luck as well. We'll talk more about why that's the case.

The employee wage protection program: You do the work, and either your employer doesn't pay you, refuses to, or your employer goes bankrupt and is unable to pay you. You don't have a union. You go to the Ministry of Labour and you make a claim for unpaid wages. It's investigated by the ministry, and if they agree that you're owed money, they write an order to the employer to pay. If that order goes unpaid for 45 days, you can apply to the employee wage protection program for the wages that are owed to you. It has already been determined that they're owed to you under the law. Originally, that program paid up to \$5,000, and beginning this year, that was reduced to \$2,000 with Bill 49.

You probably know as well that employees are so far down the list of creditors in a bankruptcy situation that it's useless, right after Revenue Canada and the banks and all the suppliers and all the contractors — and it's if they know about the trustee and if they fill out a 15-page form. Anyway, there's not a penny to be had for workers through the Bankruptcy Act.

1750

If you show up one morning and your employer is gone and there is no employee wage protection program, you are just high and dry. It can be thousands and thousands of dollars, depending on how long you've been there. If you've been with that company for 10 or 20 years and you're owed three months' or more salary, it's a significant amount of money for somebody. If somebody just disappeared with three months of any of our salaries, we would be in pretty rough shape.

Between April 1, 1993, and March 31, 1997, 50,325 workers were paid out of the employee wage protection program, a total of more than \$108 million. That's an average claim of just over \$2,000. More than 50,000 workers in Ontario needed the employee wage protection program in the last four years, 50,000 citizens of Ontario, and that's because their employers either refused to pay them or went bankrupt. It's not going to get any better. It hasn't been getting any better, because bankruptcies in Metro are still going up. They're higher this year than they were last year.

In the press release that the minister issued when she introduced Bill 136, she said that by ending the employee wage protection program, employers, not taxpayers, would be responsible for unpaid wages. But that's not what this does. It doesn't make employers responsible. It simply kills the employee wage protection program. Employers will still walk away scot-free.

She said she would press the federal government to change the Bankruptcy and Insolvency Act. The Chrétien government introduced amendments to the Bankruptcy and Insolvency Act in their last term, including one that would have brought workers closer to the top of the list, and then they themselves withdrew that clause. They decided not to put workers higher on the list in a bankruptcy or insolvency situation. They've already made that decision and I understand that the minister finds they're standing by that decision.

Unfortunately, this government is able to use the weakness that was built into the employee wage protection program as an excuse to kill it, which is that it's not employer-funded but funded out of general revenues. I found my brief to the last government when they brought in the employee wage protection plan which said exactly that: Why should taxpayers be paying this? It's the same thing the minister says.

I think there is a way to keep the program going without funding it out of general revenues, and I'd really like the members of the government to consider this. Remember, there are two groups of workers who get paid out of the program. First is the employees whose employers refuse to pay orders made by the ministry. It's already been determined that they're owed wages under the law and the employers just walk away. We have always said that the way to get that money for the workers and back into the ministry is through aggressively pursuing and prosecuting employers who refuse to obey the law.

In Bill 49, the government said they were going to privatize collections from the Ministry of Labour so there

would be effective and efficient collection of these monies, so workers wouldn't have to apply to the employee wage protection program for their money because employers wouldn't be able to walk away. That came into effect January 1. Certainly in Metro, we have no collection agencies working on going after employers for the money they owe to the ministry and to employees.

We suggest that the way to fund the part of the employee wage protection program that pays workers whose employers simply refuse to pay or who disappear is to go after the employers, not to kill the program.

The second group of workers who get money out of the program is workers whose employers have gone bankrupt. In this province, if you're halfway around the world on an airplane ticket and your travel company goes bankrupt, we don't just leave you there. The industry insures your ticket; they collectivize the risk in their own industry. I suggest that employers should do the same thing for workers and for wages. The work has already been done; the wages are already owed.

We want you to drop this piece of Bill 136. It's just mean. It takes money away from the most vulnerable workers: people who rely on the ministry for their rights, who have nowhere else to turn. At least leave it in place until you've tried to put something else in place. Here we are, nine months past Bill 49, and you haven't collected a penny for workers or to return to the ministry's own coffers.

I want to try and give you some sense of who uses the fund, whose wages these are. Ms Fuentes has had to use the employee wage protection program to collect wages that were owed to her, and she will tell you that story herself. I'll tell you about a couple more first, just to get some sense of, who is this?

You all know the people who sell flowers from the buckets at street corners. They're mostly employed by one company. That company claims they are all independent contractors. A test of that under the law shows that in fact they are not independent contractors but employees. One woman successfully made a claim through the ministry, and she was owed \$8,000. Her employer simply refused to pay. An order was written and he just disappeared or whatever, so she had to use the program, and the maximum she could collect was \$2,000.

Another one is a garment home worker. Again, this was a claim from before Bill 49. She was working for a contractor. She was owed about \$8,000 in back pay. He kept bringing the work but not sending the cheques. When she filed a claim, he had closed down that company and reopened under another name and was protected by the Bankruptcy and Insolvency Act from owing her the wages, so she had to apply to the fund.

Another one is a domestic worker who was recently paid \$2,000 out of the fund because her upscale Toronto employer, when the ministry said to some nice doctor or lawyer couple, "You owe your nanny 2,000 bucks," they just didn't pay it. The employee wage protection program was the only way she could get her money.

Ms Fuentes will tell you her own story. I just want to point out that at minimum wage — and those are all minimum-wage workers — it takes seven weeks to earn the average claim under the program, which is \$2,000, so we're talking about 50,000 workers being out two months' wages each, who have used that program in the last four years.

Ms Consuelo Rubio: I'm going to assist Ms Fuentes. I represented her in the claim against the ministry so I'm aware of the process. Although Ms Fuentes speaks some English, she feels more comfortable speaking in Spanish. I'll translate.

Ms Fuentes worked for Coffee Time. She was one of the servers at Coffee Time. She worked at Coffee Time for over a year.

For Ms Rosario Fuentes: After a while I was held up at the doughnut shop. My boss got very mad at me because he thought I was involved in the robbery and he fired me without saying anything to me.

When I started working, he paid me \$5 an hour. My employer told me he would pay me under the table. I didn't really want that, but that is the way he paid me. I couldn't even apply for unemployment insurance after he fired me. After a while, I called your community centre, and that is where you helped me apply for unemployment insurance and for the money.

After we won the case, my employer didn't pay, and then you helped me apply for money under the fund, because I really needed the money.

1800

Ms Rubio: If I may add something, our total claim, because Ms Fuentes hadn't been paid the minimum wage — as you know, the minimum wage is \$6.85 an hour, and she was making \$5 an hour — was about \$2,800, after working for about a year at under the minimum wage. The wage protection fund covered \$2,000, so at least Ms Fuentes was able to recover some of the money that the employer owed her. The employer, I must add, disappeared. The employment standards branch couldn't locate him. They contacted the main office of Coffee Time, where they supposedly keep records of all the people who have franchises. He was nowhere to be found.

We feel that women in the situation of Ms Fuentes are particularly vulnerable to this kind of thing. I think it's almost to the day that we met with the minister, with Mrs Witmer, and she undertook and promised that regardless of the amendments she might introduce in Bill 49 and later on, her ministry was committed to taking care of vulnerable workers.

I really cannot think of anybody in a more vulnerable position than someone who is working in a doughnut shop getting less than minimum wage. Asking Ms Fuentes or someone like her to go after the employer, when the ministry itself, with all the resources at its disposal, cannot recover a cent out of these employers, I'm sure you have to agree with me is totally unfair and unreasonable. How on earth is someone like Ms Fuentes going to locate that money, going to locate the employer and take that employer to court to recover moneys that are fairly and justly

owed to her? I don't know. Maybe I'm missing a point here somewhere, but I really can't see it.

Ms Gordon: I want to throw in a plug around pay equity. Speaking of unorganized workers, I don't know why the pay equity repeal is in there either. Again, why should we take some of the lowest-paid women workers in the province and tell them, "Sorry"? I hope the recent court decision will change that part of the bill.

Ms Rubio: Shelley talked about a certain group of workers in the Chinese community. I could give you examples in my own community, in a large marble factory, fashioning marble, where a bunch of people who only had work permits — they didn't even have permanent status in Canada yet — were left high and dry. The 15 I represented were owed, collectively, \$48,000, and there was absolutely no way these people would have got a penny into their pockets had it not been for the wage protection plan. The employer flew to Italy, where he was originally from. Scotiabank was after him because he owed them about \$2 million in loans. Not even Scotiabank could get it. So tell me again if it's fair to leave people who have just recently arrived in Canada, who don't have the language, who don't have the resources, to go after these people whom not even the banks can get.

I could give you 100 examples — we just had one day's notice that we were supposed to appear here today. In every industry, in every service occupation, domestics, what have you, I could give you examples. No way would those people have had a penny had it not been for the wage protection plan. It has given people at least some satisfaction that yes, they performed the work, yes, the ministry found they were owed the money, and yes, they got some money.

What are we going to do now? We're going to go to the ministry, we're going to win these cases, and it's going to be a hollow victory, because my clients are not going to have a penny in their pockets, and these are people, such as Ms Fuentes, who earn five or six bucks an hour, not even minimum.

Ms Gordon: Our position is that we would like you to maintain the employee wage protection program and find a way to fund it that's not out of general revenue. We agree with that. Get the employers who just refuse to pay to fund their piece of it and get them to somehow collectively fund the rest of it. That's the end of our presentation.

The Chair: You have left us time for about three minutes per caucus. We'll begin with the Liberal caucus.

Mr Patten: Thank you for your presentation. We have had some representations on this today — there was a pay equity group this morning — and also the wage protection program. Time and again, we in opposition have been asking, "What the hell do these two programs have to do with the amalgamation of services?" I think you have graciously not been very judgmental about the government, but it seems to us that it shows the desperation of trying to find every single nook and cranny to save expending transfer payments to municipalities or to employers and provide as many employers as possible with ways to save money.

We had similar things happen in Bill 142, in the reduction of services that you'll see, in welfare benefits, even workers' compensation, though workers' compensation has nothing to do with government resources, but it's certainly not going to help people who get injured on the job. Then we see it again here, and it will show its face in other areas. All this is to provide tough tools to cut back on expenditures, because those employer groups will be forced — many of whom have said they don't want Bill 136 either. The government can say, "You don't have to use it if you don't want to," but when you're pressed to the wall and you have to face taxpayers and people in the community and look at cutting services or increasing taxes and trying to keep your staff and things of that nature, many employers will use that tool at the expense of people.

We certainly agree with trying to maintain the program. We'll put forward amendments to keep it. The government will have to vote on those or put forward amendments themselves. I don't know if they'll do that. I don't think they will, because that was not addressed by the minister as one of the things she would back off on. On pay equity, she said that given the decision of the courts, they are considering their position, so she may back off on that. It seems to us that it will be illegal if they proceed, although they have done that before, even having had that advice.

I want to say thank you for your presentation. We appreciate it and support your position.

Mr Christopherson: Thank you very much for your presentation. I'm really pleased that we had at least one presentation that was focused entirely on the employee wage protection program. Quite frankly, it's just another one of those things this government is doing that is absolutely indefensible. There's no excuse, none whatsoever, to justify going after people who are in such a crisis situation in life through no fault of their own. What really gets me is that this is not some kind of perk. This is money that people have worked for. They earned it. The program is already in place. It's not as if you are even asking for it to be done. We did that. We put it in place. And somewhere this government finds the ability to reach in and take away this program.

What is so hypocritical is that there is correspondence from Minister Witmer earlier in the term, after they had announced what they were going to do in Bill 7, when there was a closure in her riding — all politics is local. Once we got down to her riding, she was telling the people in that closure "Don't worry, I'm going to do everything I can to make sure that you get the pre-Bill 7 levels of wages you're owed," which would be the full amount under the NDP, because of course they took away half the program in Bill 7 and the other half now in Bill 136.

The hypocrisy of saying, "I'll champion for you to try to get you that full amount," in your own community and then stand in the Legislature and try to defend that's it okay that the rules are going to change from now on is just despicable. It truly is despicable, and there's no justification. I accept your criticism this may not be the best way

to fund it, but in no way does that justify the government's eliminating it.

1810

The other thing is that the government says, "It's not our responsibility to change the bankruptcy act." If this was something someone was asking for and this government refused to entertain the idea, you could almost see them saying, "That's not the right way to go," but this is already in place. This is a take-away. It's something that workers have now that Mike Harris and Elizabeth Witmer, supported by the backbench members, are ripping away from every worker who faces a closure in the future when they're owed wages and benefits and termination and severance, and they've worked for it. I'll bet if it was an employer group, you'd be going to the wall to defend their right for money they're owed, but if it's just a worker, that doesn't count.

The other thing the government refuses to accept responsibility for is the fact that they're emboldening a lot of bad bosses. They will say — I'll bet they'll do it now; they've done it on other occasions — for every single example that's brought forward like those today; "That's awful. Somebody ought to go after that employer. That's bad. We won't stand for that. We're going to throw the full force of the law at them."

What they refuse to accept responsibility for is that they're making it easier for those bad bosses and encouraging them by sending out the message, "We're weakening the law, we're weakening our interest in representing working people, so you stand a better chance if you're that kind of bad boss." That's the message they refuse to accept responsibility for.

I don't really have any questions for you except to say that I feel this so strongly that I, and I'm sure the other opposition party, will do everything we can to try to wrench this away from Bill 136 and force the government to leave these vulnerable workers alone, just like they ought to leave the vulnerable women alone under the Pay Equity Act, which the courts have already ruled, the first time they did it, is unconstitutional and illegal. It's too bad we can't make a charter challenge out of this, because if it's not illegal, it certainly is immoral.

Ms Rubio: To pick up on something Mr Christopherson said, as part of my work, I have to accompany people to the Ministry of Labour, to what are called fact-finding conferences or meetings, where both employers and employees meet and an officer from the ministry tries to figure out whether you're owed money or what the situation is. More and more often do I hear employers now say, when they're ordered to pay: "This government is going to end this nonsense. It's going to get rid of this nonsense soon." Is it nonsense to pay people minimum wage? Is it nonsense to pay people the money they're owed? I hear those comments again and again these days.

I myself feel totally upset, because I really do not think that the intention of this government — I would hope not — is to enslave people, to make sure people don't get the money they're rightfully owed. But when you hear those comments, you have to start thinking, "Well, maybe."

That is why these employers are saying what they're saying often enough these days.

Mr Hardeman: Thank you very much for your presentation. First of all, to respond to Mr Christopherson's comments about the give-away, so to speak, to the bad employers, I would suggest that the setup of this program was to look after the needs you mentioned: the case where the nanny is working for the doctor and the doctor doesn't pay the back wages. The government I think should assist in trying to get that from the individual. The taxpayer should not pick up the bill for that doctor.

The former government was quite content to put this in place and put those things forward, and then they neglected to try to collect it from anyone. They expected the taxpayers of the province to pay all the bills for what he calls the bad employer.

Mr Christopherson: So you're just going to kill it and that makes it okay.

The Chair: Mr Hardeman has the floor.

Mr Hardeman: Let me finish. I would agree with you that the government needs to be more stringent in enforcing the orders and going after people who don't pay their just deserts. I don't believe it's appropriate for the taxpayers of Ontario to pay out \$200 million and collect \$8.5 million back. That's all they were collecting back. They aren't going after the people who owe the money. We need to put a system in place that goes after the people who owe the money, not put a \$200-million taxpayer fund in place that says, "As the Ministry of Labour or as individual employees, we don't have to go after the money, because the taxpayer will pick up the tab." I don't think that's appropriate. I think we need, as we're doing with the Ministry of Labour, to put in a greater ability for them to enforce the payment of these bills and less reliance on that fund to pay the people who are owed the money.

Mr Rubio: Mr Hardeman, I believe your government has been quite active in assisting victims of crime. To us, this is corporate crime. You're not saying to someone who's been raped, "The taxpayer shouldn't pay for this; we'll get the criminal to pay for this." We all are funding the Criminal Injuries Compensation Board, where victims of rape or assault can claim compensation. I would say that this situation is rather similar. Why should the victims of corporate crime, when people break the law and don't pay people what is owed to them, be left without a penny in their pockets?

I agree with you that we as taxpayers shouldn't be paying this, but in the meantime, someone has to compensate these people. What you're doing now is getting rid of something which has worked, without putting anything in place. You've had a whole year to put a collection agency in place —

Mr Hardeman: But with all due respect, I would suggest —

The Chair: Order. We can only have one person speaking at a time.

Mr Hardeman: I would suggest that it hasn't worked. In fact, what was intended to be a system of collecting from those who were not paying and giving it to those who

had earned the money has turned out to be a subsidization, a tax pile of money being used to pay that, and they're not going after the people who owe the money.

Mr Christopherson: Fund it differently. Why kill it? Fund it differently, if you think there's a better way. You're killing it now.

The Chair: Mr Christopherson, please —

Mr Hardeman: In all fairness, the process to get it from the people who owe it is in place through the Ministry of Labour.

Ms Rubio: There isn't. The collection agency —

Mr Hardeman: Yes, it is, but it was not fair to just have the taxpayers fund it on behalf of those who were not paying the bill.

Mr Christopherson: You're so full of it. Your minister decides to say, "I'll defend you in my riding" —

Interjections.

The Chair: Order. Mr Christopherson, that is totally unparliamentary. Kindly withdraw those remarks.

Mr Christopherson: I'll only do that because if I don't, I can't come back this evening, so I withdraw.

The Chair: Thank you very much.

Ladies, I apologize for this outburst at the end, but on behalf of all the members of the committee, I thank you for coming forward today. We do appreciate hearing your perspective.

Mr Patten: Can I put in a word just quickly? Mr Maves, is it possible to get a clarification vis-à-vis what were two points of view, from OECTA and you, on the applicability of Bill 136 to non-amalgamated school boards? Could you do a doublecheck on that?

Mr Maves: Sure.

The Chair: Thank you, colleagues. We are recessed until 7 o'clock this evening.

The committee recessed from 1818 to 1902.

POLICE ASSOCIATION OF ONTARIO

The Vice-Chair (Mr Jerry Ouellette): I call the committee hearing to order. If the members of the Police Association of Ontario could come forward and identify themselves for Hansard, it would be appreciated. Just in case you didn't know, you have half an hour for presentation. Any time remaining at the end of your presentation is divided equally between the caucuses to allow for questions and answers. Thank you very much for attending.

Mr Bill Baxter: Thank you, Mr Chair, and members of the committee for the opportunity to appear before you today. My name is Bill Baxter and I am the president of the Police Association of Ontario. I am also a sergeant with the Atikokan Township Police Force and president of the Atikokan Township Police Association. If you know where that is, you'll understand why I'm late.

With me today are John Miller, chairman of the Police Association of Ontario board of directors; Brian Adkin, president of the Ontario Provincial Police Association; Paul Walter, president of the Metropolitan Toronto Police Association; and Dave Griffin, the PAO administrator. We are here today on behalf of the 23,500 front-line

police officers and front-line support personnel in Ontario's 99 police services.

Our association has a history of working with the elected government of the day to address issues of concern. In recent years we have worked with successive governments to seek legitimate solutions to legitimate problems. Our record of achievements with respect to the Police Services Act consultations of the late 1980s, the Social Contract Act negotiations in 1993 and the Police Services Amendment Act consultations in 1996 and 1997 stands as a testament to our commitment to problem-solving through professional interaction and meaningful consultation.

Police associations across this province apply this same approach in their dealings with local issues. Whether the issue is a police contract or local restructuring, local police associations seek to work with their employer to find solutions to issues of concern.

Our response to this government's announcement of Bill 136 was consistent with this approach. Despite the immediate and significant threat that Bill 136 posed to the relative calm of police labour relations in this province, and despite the obvious fact that there had been no consultation, at least with police association representatives, prior to the introduction of Bill 136, we chose to work within the system to seek resolutions to our concerns.

Over the past 16 weeks we have met with numerous government members, opposition members and government representatives. As a result of our discussions with Minister of Labour Elizabeth Witmer and Solicitor General Robert Runciman, the Premier's office agreed to establish a consultation process with our association to review our concerns with Bill 136.

We have had extensive meetings with representatives for the Minister of Labour and appreciate the time and energy these representatives have dedicated to this process. We believe that these sessions have provided a forum to address our issues in a meaningful and productive fashion. We have gained a better understanding of the government's issues and believe that they have in turn gained better insight into the mechanics of our existing dispute resolution system and issues we believe are unique to the police personnel of this province.

We have worked together within these discussions to refine and build upon existing mechanisms, to develop a balanced and more effective method of dealing with police labour relations issues. We sincerely believe that this goal is within our reach and wish to elaborate on certain areas of concern.

Dispute resolution: The police in this province do not have the right to strike and we are not asking for it. All that we want and expect is a fair and impartial process for resolving disputes.

For 25 years, police personnel in Ontario have been subject to a neutral, binding arbitration system for resolving police labour disputes. In those infrequent situations where issues cannot be resolved locally, and if the parties cannot agree on their own arbitration process, the Ontario Police Arbitration Commission appoints independent

arbitrators to determine the outstanding issues in a fair and impartial process. While the system is not perfect, it has served police employers and police associations equally well in ensuring independent resolution of disputes and, more important, in preventing labour relations issues from distracting police personnel from their critically important service to the citizens of Ontario.

We should point out that the vast majority of police collective agreements are determined through local negotiations without the need for third-party intervention. Nine out of 10 police contracts are determined locally without resorting to arbitration. In nine out of 10 cases the parties are able to arrive at local solutions to local concerns. Arbitration is always the last resort.

Police personnel perform a unique and essential service for the citizens of Ontario. We have special responsibilities and obligations which distinguish us from other public service providers: We are prohibited by statute from membership in trade unions; we do not have the right to strike; we are recognized in law as office holders as opposed to employees; and we are expected to adhere to a unique code of conduct and distinct discipline regime.

In our discussions with the Minister of Labour and her staff, the minister has acknowledged that a separate and distinct arbitration regime is required to address what she herself has described as the unique aspects of police labour relations. For our part we have recognized that improvements can be made to our existing system to promote expeditious resolution of disputes through negotiations. For example, we have agreed that our existing system could be modified to provide mediation arbitration as the central component, with more stringent time limits for dispute resolution.

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Last Thursday the Minister announced that the existing Ontario Police Arbitration Commission would be retained. We support this decision and we were pleased that she has recognized the need to retain a separate arbitration regime for police issues. We had told her that the Dispute Resolution Commission would not work, and it is clear that she listened.

We are, however, concerned that some within government may seek to achieve the underlying agenda of Bill 136 by providing a government-appointed chair of this commission with broad powers to influence the arbitration process. It is imperative that the government take steps to ensure that the balance and neutrality of the Ontario Police Arbitration Commission is preserved. A credible and impartial chair must be selected through a consultative framework for appointment.

In addition, the duties of the commission must rest with the bipartite commission panel and not solely with the government-appointed commission chair. A commission whose chair makes all the decisions is neither a democratic nor a viable proposition. For example, the process of determining a roster of arbitrators must be a responsibility of the bipartite commission and not the responsibility of a government-appointed commission chair. The

independence and impartiality of the arbitrators appointed in the new labour relations regime must be preserved.

We are also concerned about the principles of the Public Sector Dispute Resolution Act and the additional criteria proposed for consideration by interest arbitrators. Under Bill 26, the provincial government introduced five criteria that arbitrators must consider in determining their awards. Police are subject to additional criteria with respect to the interest and welfare of the community and local factors affecting the community served by the police force. These are unique to municipal police and are not applied in any other sector.

Current arbitration awards are taking these factors into account, and the decisions of the arbitrators are not consistent with freely negotiated settlements in comparable communities. It is apparent that the government has had success in suppressing arbitration awards for police personnel.

Now the province intends to add criteria with respect to the principles of the Dispute Resolution Commission such as best practices and affordability for the taxpayer. It is increasingly apparent that some within government will not rest until the awards are written before the process even commences.

In summary, we seek assurances from this government that the Dispute Resolution Commission agenda will not be imported into the current police arbitration system. There has to be fairness, and the appearance of fairness, for the system to work effectively.

Labour relations transition: Police services in Ontario have been restructuring and amalgamating in Ontario for years without difficulty. Thirty years ago there were over 135 police forces in the province of Ontario; today there are less than 100, and that number continues to decline as amalgamations occur, regionalization takes place, as in the Ottawa-Carleton region and police services are absorbed by the Ontario Provincial Police.

These changes occur in an orderly and efficient manner, without disruption in the level of service received by the residents of these communities. The Ontario Civilian Commission on Police Services oversees these changes and ensures that adequate and effective police services are preserved. The Police Services Act establishes a clear framework for transition of labour relations issues, eliminating any concerns with respect to collective agreements and bargaining unit representation. Protocols have been developed between police organizations to complement this framework.

We do not have the multi-union, multibargaining unit complexities that may exist in other sectors. The Police Services Act permits only one association to represent the non-management personnel on a municipal police force. When a new police force is created or an amalgamation occurs, the predecessor police associations do not have status and a new police association must be formed by a majority of members of the new police force. Seniority issues are negotiated locally, and existing protocols cover these types of situations. We do not require the labour relations transition mechanisms that are provided for

under Bill 136. These would only serve to complicate an otherwise smooth process with complexity and red tape.

The Minister of Labour has announced that the transitional issues will be a responsibility of the Ontario Labour Relations Board. The police of this province are not covered by the Labour Relations Act, for obvious reasons. We suggest that it would be inappropriate to include the police under the Labour Relations Board for transitional issues when these transitional issues are not a concern in our sector.

Current legislation establishes a distinct labour relations framework for police, to recognize our unique status, and this should not be abandoned. It does not make sense to separate these issues across two different statutes, unnecessarily complicating an otherwise straightforward system.

In conclusion, police personnel should be exempt from the labour relations transition components of Bill 136.

I now call upon my colleagues to address several areas of particular concern to their associations.

Mr Brian Adkin: Good evening, Mr Chair and members of the committee. My name is Brian Adkin, and I am president of the Ontario Provincial Police Association. We represent 4,700 front-line police officers who deliver police services across this province.

We pride ourselves in working together with our employer to establish and maintain a harmonious and productive labour relations environment. In 40 years our association has only resorted to interest arbitration on two occasions. In all other instances we were able to negotiate an agreement with our employer.

Like my colleagues here today, our members expect a fair and impartial system for resolving our labour relations issues when disputes cannot be resolved with our employer. Our situation differs from other police forces in this province, however, because our employer is the provincial government, and the government has the ability to make the laws.

Under present legislation, the association and employer must agree on an arbitrator to hear our dispute. Under Bill 136, the government wants the power to appoint the arbitrator, without agreement of the association. Is that fair? No, I think not. It is not fair and it's certainly not impartial.

We were in the process of scheduling an arbitration hearing with our employer when Bill 136 was announced. Government negotiators subsequently informed our association that they would be seeking to delay our arbitration hearing until Bill 136 had been passed. Essentially they wanted to rewrite the rules on how this dispute would be resolved and then select the arbitrator to determine the matter. It is truly a credit to our membership and their resolve that we chose to seek resolutions to our concerns through dialogue as opposed to confrontation.

I am pleased to report that we have resumed negotiations with the province in the hope of reaching an agreement and avoiding arbitration. We are concerned, however, that if this cannot be accomplished, we will be faced with a government-appointed arbitrator. Because of

the delays presented by Bill 136, the arbitration process we commenced must be abandoned, and we will have to resume proceedings under Bill 136.

This isn't good enough. We urge you to restore neutrality, independence and impartiality to the process of selecting an arbitrator. Furthermore, the provisions of Bill 136 should not take effect until January 1, 1998. This would allow existing proceedings to come to a conclusion and future agreements to be determined under the new process. That would be fair to all concerned, and fairness is all that we have asked for. Thank you.

Mr Paul Walter: Good evening. My name is Paul Walter and I am president of the Metropolitan Toronto Police Association. As I'm sure many of you are aware, we represent over 7,000 men and women who police Metropolitan Toronto, police officers and civilian members on the front lines of Canada's largest and most diverse city.

Today's police personnel face extraordinary and unprecedented challenges and pressures. Staffing cuts, budget constraints, increasing crimes of violence and intense media scrutiny place us in the forefront of contemporary policing challenges.

In the last 12 years violent crime in Metro has increased by 75%, assaults by nearly 100%, and armed robberies jumped a whopping 160%. These extraordinary trends can be found in many other jurisdictions as well across this province. Yet while crime increases, the number of police officers in my community has dropped by 700 officers over the past seven years. We have 300 fewer officers than we did 20 years ago.

Despite these challenges, my members continue to report for duty each day with the goal of doing the best job they can within these constraints, to make their communities a safer place in which to live. All they ask in return is to be treated fairly by their communities, by their employer and by their elected governments, both in Metropolitan Toronto and in the province of Ontario.

The corporatization of Metropolitan Toronto has rewarded my members' efforts in doing more with less by seeking to strip provisions from their collective agreements. In our last round of negotiations, the employer aggressively sought to reduce many of our benefits, suppress our wages and eliminate shift schedules to provide our members with less time with their families. That's the thanks they seem to be getting for trying to make a difference out in the community.

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In 1985 we experienced first hand the efforts of a provincial government which wanted to interfere with the arbitrator selection process in an attempt to tilt the scales in favour of the employer. Our members reacted at that time with a sustained and very costly job action which lasted more than 5 months, in my view just totally unnecessary. It certainly did nothing to enhance the labour relations atmosphere between the police and Metropolitan Toronto at that time.

The association and the employer eventually agreed to opt out of the Ontario Police Arbitration Commission

process and established a truly independent and impartial system for resolving our contract disputes.

This system is contained within our collective agreements. It's one that we fought for quite extensively and came to an agreement with the Metro police services board. As far as we're concerned, it is sacred within our collective agreement, it's the system we follow. It isn't a perfect system either, but it has served our members and our association, as well as the Metropolitan Toronto Police Services Board, reasonably well over the past decade in providing a neutral dispute resolution system.

Last year the government invoked Bill 26, which placed criteria on interest arbitrators and has had a dampening effect on interest arbitrations across this province, including Metropolitan Toronto. In our most recent arbitration, the award handed down two weeks previous did not reflect the pattern of negotiated settlements that has occurred across police forces in Ontario.

Although arbitration awards are not keeping pace with negotiated increases in other communities, some employers and some government officials are not satisfied by this. In fact our arbitration award was probably one of the meagrest of all the settlements to date within the province. We fully are of the view that some government officials won't rest until they are able to roll back our wages and benefits. We can't allow this to happen, and obviously we won't permit it to happen.

The government now proposes under Bill 136 to eliminate the arbitration system we have established in Metropolitan Toronto, one that's worked reasonably well for both parties. In fact for the most part I think it's worked more to the employer's favour than to the association's. Regardless of that, we are convinced it's a fair, impartial system that is not tilted one way or the other.

Now what's being proposed is that the province will be able to select the arbitrators and these arbitrators will work within the government's agenda. They want to dismantle the system that has been acceptable to both the employer and the association for more than 10 years and require us to be beholden to government-appointed arbitrators.

We simply ask that this government respect the system we have established within Metropolitan Toronto, to allow us to continue to seek resolution by neutral and impartial arbitrators. It is simply a matter of fairness. We ask for nothing more than fairness and we cannot accept anything less.

Mr Baxter: In conclusion, we'd like to end up where we started, and that is to say, when reasonable people sit down at the table and work together to address issues and concerns, they usually come to reasonable solutions. In most cases we have been able to do that. Whether it is in contract negotiations, local restructuring or discussions with provincial representatives on Bill 136, in most instances the opportunity exists to address issues in a reasonable fashion.

That's really all we ask of you. Allow us to work within a system that balances the legitimate needs of police employers and police associations.

In closing, I said earlier that we chose to work with this government to address our concerns on Bill 136. We believe our approach in finding solutions to legitimate issues has served us well. We appreciate the sincerity and openness that has been afforded to us by the government and opposition members in addressing our issues. We trust this approach will prove to resolve our concerns in a satisfactory manner.

Thank you very much for allowing us to be here today and for your attention during our presentation, and good luck in your deliberations.

Mr Christopherson: Gentlemen, thank you very much for your presentation. Always a pleasure to do business with the PAO, past, present and hopefully in the future.

I want to start with Paul's comment and the grin you had on your face towards the end when you acknowledged that in recent settlements, thanks to changes the current government has made, most of the disputes resolved seem to be somewhat — and I'm paraphrasing of course — in favour of the employers more than your members. I would just say to you, surprise, surprise.

The fact of the matter is that a lot of your members, and perhaps some of your association leadership, thought that because this government likes to scream the law-and-order line and say other things that sound good — the fact of the matter is you're all still special interests. You're an association; that's close enough to unions. You're still workers in their mind, and the people who are closest to them are the folks in the management world.

That's showing itself in Bill 26 and in Bill 84 for firefighters. It's showing itself here originally where they were planning to impose Bill 136 on you all the way through. The reality is, they're no more your pals than they're the pals of any other public sector worker or private sector worker in Ontario. I would ask you to think about that.

I just want to walk through your presentation and point out some of the similarities in terms of submissions we've heard from other people representing other working people, and show you the similarities in terms of the message.

On page 3 you say that all you "want and expect is a fair and impartial process for resolving disputes," and you used other words like "neutral" and "binding arbitration." You can almost compare that word for word with other presentations from other organizations representing other working people. You're not asking for any special favours; neither are they, but neither are they going to stand back and let their members be dumped on because of some other political agenda the government of the day may have, this government or any other for that matter.

You ask that the Ontario Police Arbitration Commission be retained. The other organizations are coming in and saying that there's no need to set up the two commissions because you can do it under the OLRA with the board making the decisions — very similar to what you're saying.

You say on page 7 that you want reassurance from the government that the DRC agenda will not be imported. We've heard that at least twice today from other unions,

associations representing working people, saying, "If all you're going to do when you announce you're standing down from 136 is transfer all the awful stuff in 136 into other places" — in your case it's into your existing arbitration commission — "but eliminate the name of the other commission, you haven't done us any favours at all."

The other groups are saying exactly the same thing. Again you emphasized the word "fairness." I would remind you, as I've reminded others, twice now this government has removed the word "fair" from legislation that affects working people.

Page 9 talks about the LRT —

The Vice-Chair: That is your time.

Mr Christopherson: If I can close, Brian, I can appreciate your particular situation. Not only are they the employer and the lawmaker, but they want to hire the judge and jury for all the decision-making. We're pleased you're here. We'll support your position and we're glad you're throwing your lot in with the other people who are being kicked by this government.

Mr Maves: I don't know the history, but when David was the Solicitor General it would have been really interesting to know if you had to have negotiations with the OPP on that, but that's another discussion we could have.

Mr Christopherson: Ask them. I'll stand by my record, but you guys have to live by yours.

Mr Maves: I think that would have been an interesting time at the table.

Thank you very much, gentlemen, for everyone coming forward and making your presentation, and for coming long distances. As you've noted, you've met several times — I don't know if you've all met as a group with the minister and Ministry of Labour staff. Yes? Okay. I didn't know if it was just one or two. You've had several meetings with the Solicitor General now and the Minister of Labour and her staff about this, and it sounds like you're fairly pleased with the direction of most of those meetings.

One of the things I found interesting in your brief was very early on when you said, "For our part, we have recognized that improvements can be made to our existing system to promote expeditious resolution of disputes through negotiations." There are a lot of stories out there about length of time for hearings in the arbitration system, and you've singled out that the "existing system could be modified to provide mediation arbitration." In your view, how would that expedite the current arbitration process? Get some of the easy ones off the table?

Mr Baxter: I think it would assist in getting a lot of things off the table right close to the commencement of that system. With the mediator-arbitrator being the same person, the parties would be in a better position to understand where the mediator-arbitrator is coming from, maybe less likely to want to go into the arbitration system if they're having a clear indication from the mediator as to where he sits in the dispute.

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Mr Maves: You didn't mention another possible choice of procedure mentioned in the bill, which is mediation-final offer selection. I think part of the rationale for

having that as a choice of procedure was simply that it might introduce some uncertainty and encourage people actually to successfully collectively bargain, a further reason to avoid the arbitration process. Do you have any comments on the inclusion of the mediation-final offer selection being an availability?

Mr Baxter: I don't believe we mentioned it in our brief.

Mr Maves: You may not, and that's okay.

Mr Baxter: Certainly in final offer selection it would be our viewpoint there would have to be tight restrictions on it, used in exceptional cases rather than the norm, maybe where there was indication that one party was failing to negotiate in good faith, had dug in and was entrenched in its position and not about to move.

Mr Patten: You see how quickly time goes when you're having fun.

Thank you, gentlemen, for being here. In my first response in the House to this I used an example I'd like to cite quickly, because it will probably bring back memories. This is the *Globe and Mail*, Wednesday, February 27, 1985:

"Ontario's Solicitor General, John Williams, has appointed a law professor to arbitrate the labour dispute involving Metro Toronto Police, but the police union president says his association won't participate in the process. 'There's no way on God's green earth that we're going to put our case before another arbitrator,' association president Paul Walter said yesterday in an interview."

Do you remember? There's a beautiful picture of you here.

Mr Walter: Did I have more hair then?

Mr Patten: You had a little more hair. It's in a long style. That was the early 1980s.

I guess the point is that it didn't work then and it demonstrated the strength of feeling of the association and I would imagine all the police forces. The system, I grant, has worked well. You've acknowledged that there may be some areas and you've offered and put something on the table to look at how time frames might be expedited to some degree. I think we've supported your position related to that on the basis of the existing situation and any historical evidence.

One thing my colleague David referred to was, are you worried, as some of the others are, in terms of taking the transition commission and putting that on to the labour board, but not changing any of the criteria or any of the functions or responsibilities that were there in the original piece of legislation, and superimposing that on the Labour Relations Board, and doing the same thing from the Dispute Resolution Commission and imposing that on the Police Arbitration Commission? Is that a worry of yours?

Just further to underline that, that's why we keep pushing to have the amendments here so that you can see them. Almost every group that's come in has said: "Listen, it's difficult to respond to this because we don't yet know exactly what's going to be in the legislation and what form it will take. If it takes one form, it could be fine; if it takes another form, we could have problems."

Mr Baxter: Certainly one of our concerns and issues that we've discussed is there's no sense getting rid of the DRC if it's just going to be renamed. If you're going to bring a like system under the name of the Ontario Police Arbitration Commission, then that would be one of our concerns, of course.

The Vice-Chair: That concludes your presentation. Thank you very much.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Vice-Chair: We now ask representatives from the Ontario Public Service Employees Union to come forward and identify yourselves for Hansard.

Ms Leah Casselman: My name is Leah Casselman. I am president of the Ontario Public Service Employees Union. Our first vice-president-treasurer is Len Hupet. One of our research staff is Moya Beall, and another is Jordan Berger.

I realize you have a very rushed schedule for these hearings and I thank you for finding the time for OPSEU to present our views on Bill 136.

OPSEU represents 100,000 members in the public sector, including the 65,000 workers who are directly employed by the government of Ontario. All of them could be affected by this legislation.

We've been promised that the government will introduce a host of amendments addressing our concerns. From what we've been told, Bill 136 will be completely overhauled. Unfortunately, we've not seen these amendments yet, so that puts us in an absurd position of making a presentation based on an unamended bill and a series of hasty press releases from the Ministry of Labour.

I would also like to note that the government has broken its commitment to hold province-wide public hearings on this legislation. Rushing Bill 136 through the Legislature with as little debate as possible will not make this bitter pill any easier to swallow.

That said, we've come a long way since June 3. Bill 136 as originally presented would have gutted our system of labour relations in this province, and once again Mike Harris has singled out public sector workers as the first victims of his assault on the rights the labour movement has struggled so hard to win. Once again public sector workers are seen as obstacles rather than partners in the restructuring of the public services they provide. Once again Mike Harris underestimates public sector workers and their unions.

Mike Harris tried to undermine the Ontario Labour Relations Board by creating the Dispute Resolution Commission as his own private tribunal for deciding public sector disputes. The Tory government tried to strip the OLRB's right to adjudicate over restructuring and transfer that right to the new Labour Relations Transition Commission.

Mike Harris tried to stack these two new tribunals with his own handpicked appointees. His government tried to strip public sector workers of our right to strike. Finally,

Mike Harris tried to prevent OPSEU from representing its own members after downloading occurs.

They could have saved Ontario a lot of time and worry had they recognized the contribution the labour movement can make. These changes simply had to be made and we are pleased you finally recognized this.

We do have additional concerns, however. Because these hearings are so truncated, I will focus on issues which are particular to crown employees. Our written presentation covers wider issues, and others will also address those.

Severance pay slashed: The government is singling out the OPS, that's the Ontario public service, their own employees, for discriminatory treatment once again. The bill amends the Employment Standards Act to change the severance obligations of the crown. Now, if OPS or crown employees' jobs are transferred to another employer, the government must pay severance to the affected employees, but Bill 136 transfers that obligation to the new employer. This means payouts will be lower and will not be made until the employee leaves the new employer.

In regard to our bargaining rights, Bill 136 continues the bargaining rights of bargaining agents in the same bargaining unit, except for crown employees. These employees who were previously crown employees would not be included in the new bargaining unit.

Being decertified at the stroke of a pen: The bill effectively decertifies the unions representing crown employees who are transferred to a successor employer. This imposes second-class status on our members, your employees, violating their rights of association under the Charter of Rights and Freedoms. Your employees lose their collective agreement when they are transferred, they lose their representation rights and are vulnerable to the whims of successor employers. Your employees are treated as non-union employees and are included in the 40% threshold that triggers a non-union option on the ballot. Crown employees, your employees, deserve exactly the same rights that all other union members in the province have. Counting former crown employees as non-union puts them and their union in a bizarre and unfair situation.

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"Reasonable efforts:" Some of you may recall that. It took us five long weeks to get that language, which you're now realizing the impact of these days. The OPS collective agreement requires the government as employer to make reasonable efforts to find employment for OPSEU members, their employees, whose work is transferred out of the public service. This employment must have wages and terms and conditions of work as similar as possible to those in the Ontario public service. This collective agreement was signed by both parties after a five-week strike. It is not an obligation that we take lightly.

Bill 136 fails to acknowledge this responsibility. In fact it is in conflict with it, as I'm sure some of your people in Management Board have told you already. When these employees are transferred out of the OPS, they move out with no collective agreement and no union. They lack the ability to enforce these reasonable efforts, assuming they

have been made. They are extremely vulnerable, your employees, to decisions of the successor employer, despite the contractual obligation that you have made to them as their employer.

Putting OPSEU on the ballot does not address the "reasonable efforts" problem. It allows us to compete in representation votes but doesn't help our members, your employees, in the interim period. Counting former OPS members as non-union in vote situations puts them and their union in an unfair situation. It forces OPSEU in some circumstances to compete against itself.

Over the last four months Mike Harris and his Common Sense Revolutionaries have seen what the labour movement, if provoked, can do. We are a powerful obstacle standing in the way of his lean, meaner Ontario. We are united in our opposition to any attempt to strip our members of their hard-won rights. In particular, we stand by our brothers and sisters in the education sector, if significant changes are not made to Bill 160, the so-called Education Quality Improvement Act. Mike Harris should be told that the divide and conquer he plans on will not work, not with this labour movement, not after all we've been through.

Finally, I would like to reflect on this government and its approach to labour relations. It is increasingly clear that the Common Sense Revolution is intended to turn back the clock, to restore the working conditions of the last century. To those who may want to return to the exploitation of workers and dramatic disparities of the past, I want to say this: Be prepared for a return to trade union tactics of the past.

Since the Second World War our labour relations system has been based on stability. In exchange for the rights and legal protections we have enjoyed as workers and trade unionists, we have agreed to set limits on our ability to strike back against our employers. The labour movement presently operates in a highly complex web of laws, regulations and jurisprudence. It dictates what we can do as workers and when we can do it. If you continue to attack workers in the public or private sector, if you continue to undermine the current labour relations climate, there will come a point when we say, "No more."

We will continue to mobilize our members against this government and its anti-people agenda, and if we are forced to act outside the law, we will do so to protect our members and their rights. Our slogan in OPSEU is "Whatever It Takes." I urge the government members of this committee to seriously consider this slogan, because we mean it.

The Vice-Chair: Thank you for your presentation. That leaves us just over six minutes per caucus for questioning, and we begin with the government side.

Mr Maves: Thank you for your presentation. I was at a meeting some time shortly after the introduction of 136 with an OPSEU local. I'm sorry, I can't remember which one it was. At that time they brought up the problem of an OPSEU option not being on the ballot, and it was at that time I think we first recognized that as a problem. As you said, in the minister's statement she said: "OPSEU's

concern that restructuring that involves employees currently represented by OPSEU...that union's name was to appear on the ballot...employees in the workplace vote representation rights. We agree our amendments would address OPSEU's legitimate concern." You're satisfied that then is something that is taken care of.

Ms Casselman: Yes, considering that it was this government that stripped their own employees of the rights that other workers still enjoy in this province, I guess that's the least you could have done. But there are still difficulties with that situation because they remain non-union, so they actually come out into what we refer to as a silo and have absolutely no protection. They don't have the ability to go for promotions or to bump into other positions because they are in this silo of non-union. They can't compete with any other worker until there is a collective agreement negotiated, if in fact there is one. So it's a double hit for your own employees.

Mr Maves: They would be covered by the seniority provisions within the bill, though, as non-union employees.

Ms Casselman: Which doesn't mean much, quite frankly. They still don't have access to anything in any of the collective agreements, because they will now potentially be in a workplace with other people who still have all the protections of their collective agreements and they have absolutely nothing.

Mr Maves: One thing you mentioned in your presentation was about the community and social services restructuring that took place in the Kingston region that was quite successful. Over what period of time did that take place, do you know?

Ms Casselman: I don't know, sorry. I guess if you were in a hurry I suppose it would be too long.

Mr Maves: I was just curious. I had one other here I wanted to ask. The other thing that was related to the first question, if 500 OPSEU employees are transferred into a non-union workplace of 50 people, then your contention here is there wouldn't even be a vote. Would it be difficult to organize that group though?

Ms Casselman: With the new changes you've made to the ability for unions to organize?

Mr Maves: Well, if they're already all OPSEU employees.

Ms Casselman: No, we don't employ them, you do, or you used to.

Mr Maves: Yes, but they're already —

Ms Casselman: No, they lose their union.

Mr Maves: They would have been already OPSEU-represented employees when they transferred down.

Ms Casselman: They're called members, yes.

Mr Maves: So what's your contention? Once they get moved down, there's a period of time where —

Ms Casselman: The first contention is that, unlike every other employee who will be affected, they have lost their collective agreement. They've lost every benefit they've negotiated over the last 20, 30, 40, 50 years in that agreement. So they don't have any of that. Second, with some of the tactics we're seeing employers use now

with your changes to the labour laws and around organizing, the ability to organize is more difficult. We're also the only union that's being forced to reorganize our own members.

Mr Maves: In effect, yes. Thank you.

Mr Patten: Hi there, welcome. In the spirit of the introduction that you have when you quote the minister, and what does this mean and what does that mean in terms of some of her statements, you also go on to say that without the amendments before us it places this submission in the position of groping in the dark. I want you to know that out of the 10 presenters so far today, nine have identified exactly the same concern that you have and, frankly, as I've sat here today —

Ms Casselman: And the other one is a clairvoyant?

Mr Patten: The other one was the hospital association.

Ms Casselman: Oh, yes, they are clairvoyant.

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Mr Patten: Yes. So as I've sat here today some patterns seem to be emerging. Let me ask you a question on this. I sense obviously a sense of, I won't say cynicism, but a sense of reticence to accept the minister strictly at face value, and I do too, based on what I've seen. In your discussions with her and based on her statement yesterday here in committee, I don't know whether you had a chance to hear her, she was to provide greater detail. Some of the media interpreted that that she was really going to be specific about the amendments, which she was not. Are you of the mind that until you see the amendments specifically, you must maintain your position of a degree of scepticism?

Ms Casselman: As I said to the press today, everything's still on the stove. Bill 136 is on the back burner on a simmer. The education bill is on the front burner on a boil, and nothing has been taken off the stove. We're continuing to mobilize and to make sure that our membership is ready because we do have a lot of history in dealing with this government, representing the workers that are the employees. So, yes, reticence is a good word.

Mr Patten: In the interest of time, the one pattern we've seen today — and we asked the minister that, and we approached the minister, requested and asked her yesterday — but it would appear more and more in the face of no denial by the government's side, the committee or the minister, that the probability of transferring the transition commission, lock, stock and barrel, with its functions and responsibilities and criteria over to the Labour Relations Board, and some form of organization — it could even be I suspect a special negotiating unit for this transition period, it could even be some of the same people, it may be under the name of the labour board, but originally I had thought that what the government was talking about was with the existing labour board relations rules and criteria and way of doing business and that they would drop the commission and the commission's terms of reference and the criteria that they were employing. I'm led to believe now that that's not true. That's what worries me. That's why we keep asking for those amendments. What's your view on that?

Ms Casselman: Well, the analogy that kind of jumped into my head would be kind of like putting pigs into a chicken coop and asking them to lay eggs as opposed to just adding more chickens. So we're very concerned that that could be exactly what they're going to do, backdoor it through the OLRB. But the OLRB has got 50 years of history in dealing with labour relations, so if you're trying to put pigs in there and get them to lay eggs, you're going to have a real mess, quite frankly.

Mr Patten: It was also brought up by the police association and the OPP, likewise, in terms of the dispute resolution, that that goes to the Police Arbitration Commission, and that that same dynamic could be a parallel to what I just described in the former case.

Ms Casselman: Yes, it's a dangerous game they'd be playing doing that, I would think.

Mr Patten: I would think so too. That's why we try to encourage them to — of course they say they're working on it. They won't submit them until the final hour where we'll have no chance to react at all. Once the amendments are submitted, that's it. We cannot even make an amendment to an amendment that the government puts forward. I don't call that creating an environment of trust and goodwill based on the verbal expressions of the minister in the absence of a specific piece of legislation.

Ms Casselman: I would suggest that if that's the time frame that you're looking at and you won't have time to react, we will. Thank you.

Mr Christopherson: Thank you, Leah and delegation, for your presentation. You represent 100,000 people that are potentially affected by Bill 136. Did government talk to you at all before they put Bill 136 on the floor of the Legislature?

Ms Casselman: No, the government doesn't talk to us at all about anything.

Mr Christopherson: Did they talk to you before Bill 7?

Ms Casselman: No.

Mr Christopherson: Bill 99?

Ms Casselman: No.

Mr Christopherson: Bill 49?

Ms Casselman: No.

Mr Christopherson: Bill 15?

Ms Casselman: No, nor on Bill 152.

Mr Christopherson: So I gather you've got quite a strong feeling that when this government says they want to listen and consider what everybody has to say, you're not buying it.

Ms Casselman: I'm really disappointed because we're the only union that got mentioned in the Common Sense Revolution. They actually said in there that front-line workers, that OPSEU had some good ideas — our name's actually in there if you've read it; we have good ideas — and that it's really important to talk to front-line workers because they know what's going on. So I would encourage those, particularly the back benchers who are asking the government to get back to the Common Sense Revolution, to review those pages as well.

Mr Christopherson: Why is the government backing down from the original Bill 136, in your opinion, assuming they do in the writing too? Why do you think they're doing it?

Ms Casselman: I would suggest there's a whole bunch of reasons. Polling has a lot to do with it, and all kinds of different things that are happening within the communities. I mean two years of cuts, they've got to start bubbling up to the surface eventually, and I think that's having a big impact on them.

Mr Christopherson: When you say polling, are you suggesting that there was increasing public support for the position being taken by the labour movement around Bill 136 and the effect on communities?

Ms Casselman: Oh, most definitely. People are now starting to relate to the fact that public sector workers are equated to the service that they're no longer going to get. That link is now being made in the minds of the public.

Mr Christopherson: I've asked other unions, and I'll ask you the same question. If the government had approached you before they tabled Bill 136 and showed you what they were intending to do, you likely would have reacted the same way, would have offered up the same alternatives, and if the government backed down the same way they ultimately did, again assuming they do, then could all of this have been avoided by maybe a single phone call starting a series of discussions? Could all of this that the government tends to blame on you and your members in terms of all the fear and the worry and the apprehension and the withdrawal of services etc have been avoided?

Ms Casselman: We were just doing what every other group has had to do, whether it was the doctors, where they say they're going to change it, so the doctors threaten job action, go on strike and get a table to sit down and talk. They're going to download so AMO threatens some kind of action and doing them in, so they get a table to sit down. We just figured that was the pattern. They're going to introduce something, you have to react, and then you get a table to sit down and talk, so we're just kind of following the pattern.

Mr Christopherson: You've learned it real well.

Ms Casselman: Thank you.

Mr Christopherson: Hopefully the government has learned something. We're like you. I'm not 100% sure what all this means and, like you, I think a lot of it has to do with what their polling is telling them. I'm so glad to hear that you're going to stick with the teachers because we know with this government that if you don't hang together, you're all going to hang one by one. That's a given with this government.

Even the police association, to some degree I think, acknowledged that their problems are no less important and no different than those of other public sector workers. Even Paul Walter from the Metro Toronto Police Association said that a lot of the decisions as a result of Bill 26 are now in the employers' favour and they're beginning to understand that, hey, they aren't on the side of the bosses

and the political pals of this government, they're just working people too at the end of the day.

I guess the last thing I want to ask you is, do you think it's a possibility that because the government thinks they can't win with the coalition that was built around Bill 136 teachers may be the next target, that they're trying to find themselves a villain to go after? They decided they can't win with you and now they're going to try and pick off the teachers?

Ms Casselman: I think if you listen to the rhetoric coming out of the Minister of Education's office you can probably figure that there's an incredible amount of need there to score some points. So I'd agree that they're probably going to go after the teachers, but I think they'll lose there as well. People understand the importance of public education that's accessible to everyone, not just those that have money.

Mr Christopherson: The Hansard won't pick up the laughing of the government members when you said about the rhetoric. That's what's so difficult to accept: Everybody else's position, no matter how passionate or truthful, is always rhetoric. But the fact that their minister can stand in the House and promise something and break her word doesn't qualify as rhetoric or irrelevant words somehow doesn't come in to all of this. It's just so insulting, and the arrogance that you continue to display is just beyond belief. The only time those chickens are going to come home to roost is in the next election.

Leah, thank you very much, and I urge you to keep up the fight. There's a lot of other people counting on you and others in the labour movement because they've cut the legs out from everyone else, and if they can take you on, then there's no stopping them. So keep up the fight.

Ms Casselman: Well, we've been there before. Thank you very much.

The Vice-Chair: Thank you very much for your presentation.

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KENAIIDAN CONTRACTING LTD ONTARIO GENERAL CONTRACTORS ASSOCIATION

The Vice-Chair: I call the next group forward: Kenaidan Contracting Ltd and Ontario General Contracting.

Mr David McDonald: My name is David McDonald from Kenaidan Contracting.

Mr Don Cameron: I'm Don Cameron from the Ontario General Contractors Association.

Mr McDonald: Some of my presentation overlapped with some of Don's, so I've cut mine down. Could questions come after both of us? You have to listen to both of us to understand what our position is.

I am the general superintendent of Kenaidan Contracting and I am here standing in for the company president, Mr Aidan Flatley. Kenaidan is a Toronto-based, general contracting firm that is at present one of the three or four largest open-shop general contractors working in the

greater Toronto region. We are here because we do not believe that the implications of the greater Toronto amalgamation process on the construction sector have been fully comprehended by the Legislature or the public of the GTA or the province.

The legislation will cause hardship, if not bankruptcy, to hundreds of companies and perhaps thousands of workers in the GTA and decimate the competitive bidding environment for public sector projects. The implications of this are not only for the greater Toronto area but will carry out throughout the province by virtue of recent Ontario Labour Relations Board decisions.

I have worked for Kenaidan for 15 years, and for over 20 in the construction industry in Toronto. I was born in Toronto, as were Ken Smith and Aidan Flatley, the company's founders. Fifteen years ago, I was working at the end of a jackhammer, repairing city of Toronto parking garages with Ken Smith as my supervisor, as our company cut its teeth doing publicly tendered projects in the city of our birth, as have hundreds of companies and thousands of workers in the open-shop sector in the Toronto region.

Today, we do \$100 million worth of work across the province. We are a success and we have built that success on hard work, as have thousands of others, both small and new people trying to get into business in the greater Toronto area. Our success is built on doing quality work for our clients, doing it safely and creating an atmosphere of mutual respect between employees that creates a working environment where people want to work for Kenaidan Contracting. It also means they have a choice, that they do not want to have a union.

If the present legislation is passed unaltered, our success can never happen again in the greater Toronto area and our future in the city of our birth will be compromised. We do not believe this is the desire or the intent of the citizens of the province or of the Legislature, nor do we believe the citizens should pay the financial burdens that this will impose upon them.

I enclose in my submission a letter that I sent to the Minister of Labour and some recently publicly tendered projects that we have bid on in the city of Toronto for Metro and the greater Toronto area. The little x's beside the contractors on those lists are contractors who would be disqualified most likely in the future, if this legislation is passed as it is constituted at present and if the precedents of the Ontario Labour Relations Board are carried through as most people envision them to be. Thank you.

Mr Cameron: Our association, which includes among its many members Kenaidan Contracting, has a particular and specific interest in a very narrow area of the amalgamation of the municipalities and school boards in this area. Our membership is made up of small, medium and large companies, both unionized and open-shop firms, who act as general contractors for construction projects. These projects include water and sewage treatment plants, libraries, schools, police stations, buildings at the Metro Zoo, Metro Hall itself, and other municipal buildings.

Many of our member firms, particularly the small companies and the newer firms, rely very heavily on public

projects to get started and to grow. Also many larger and well-established firms specialize in this public sector work. I will give you a few examples in a minute.

Our first concern relates to the extension of construction union agreements with current municipal bodies and how they might be immensely broadened by amalgamation. For example, we understand that the city of Toronto has the following construction trade agreements, even though they may not employ even one person in that respective trade: carpenters, plumbers, electricians, bricklayers, asbestos workers, painters, glaziers and sheet metallists. The municipality of Metropolitan Toronto itself has the following construction trade agreements: carpenters, electricians, plumbers and bricklayers, obviously all very important trades. Only nine general contractors in the entire province have all of those listed trade agreements. Some of those don't even operate in the Metro area. Few of them even bid some of these types of work.

On several recently tendered projects for Metro, ranging in size from \$4.5 million to \$30 million, none of the bidders had all of the required union affiliations, about 50% of the bidders were completely open shop, and the balance had anywhere from one to seven agreements. In one particular project, the two lowest bidders were non-union firms. The third bidder had seven agreements, but not all of the necessary agreements. If you follow the Toronto-Dominion Bank-Ontario Labour Relations Board decision principles — and I'll speak to that in a minute — if they had had to go to the third bidder, who as I said doesn't even fully comply with all of those union agreements, there was a penalty to be paid of some \$950,000 on that one job alone.

The problem arises when these union agreements stipulate that these public bodies cannot contract or subcontract out to companies who are not signatory to agreements with these same unions. These agreements cover perhaps a handful of maintenance personnel within Metro and the city of Toronto employees, but they restrict Metro and the city of Toronto to use unionized contractors in these important trades.

Scarborough, East York, North York, York and Etobicoke currently have no such agreements or restrictions. A firehall in any of these five municipalities in Metro can be built union or non-union, but not in the city of Toronto. A non-union contractor can do renovations in Scarborough city hall but not in Toronto city hall.

Our association's board of directors, 30 contractors from across the province, about half from the greater Toronto area, from small and large companies, about 50-50 union-non-union, voted on last Friday, September 12 to strongly oppose any extension of the construction trade agreements of Metro and the city to the broader new structure, particularly in respect of the contracting out of projects.

A similar thing applies to the city of Toronto school board. The city of Toronto school board has an agreement with the Carpenters, as I understand it, and perhaps other trades that I'm not aware of. None of the other borough school boards have agreements. The federal and provincial

governments and virtually all other municipalities, in fact all, to my knowledge, have no similar restrictions. In other words, union and open-shop companies, all equal taxpayers, have equal access to publicly funded projects.

Our second concern is closely related to the first, and is intertwined with it, and relates to the impact of a recent Ontario Labour Relations Board decision. Until now, contracts with Metro and city of Toronto only stipulated that the work of the name trades had to be done by unionized workers, but they still awarded contracts to non-union companies. I think you gather some of that from what Mr McDonald said, that although they're a non-union company, they were able to accept contracts from Metro and from the city of Toronto to perform work, as long as the work of those particular name trades was being done by union forces.

The Toronto-Dominion Bank-Ontario Labour Relations Board decision, a very recent one, and one pending with the Lanark board of education, will change all of that. The Toronto-Dominion Bank, which has an agreement with the Carpenters union, had, over the years, hired open-shop contractors to construct facilities and do renovations but insisted that all carpentry work be done by union carpenters.

The July 1997 decision now prevents Toronto-Dominion from contracting work out to companies with no agreement with the Carpenters union. Many of their long-term contractors and customers are no longer able to bid for work for the bank. One small general contractor in Scarborough, who relied heavily on the bank for the majority of their work, had little choice but to sign an agreement with the Carpenters one month after the OLRB decision.

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The same principle of the Toronto-Dominion decision will inevitably soon be applied to the city of Toronto and the municipality of Metropolitan Toronto. Contractors who regularly bid on and perform work for these public bodies and their workers will be denied access to these taxpayer-funded projects. On larger projects of \$10 million and more, up to half of the bidders are open-shop firms. When the TD decision impacts, half of the competition or more will be eliminated. With small projects of less than \$1 million, sometimes more, sometimes 100% of the bidders are non-union, new companies, growing companies. In such cases there may be no bids or only one or two, and as we all appreciate, less competition means higher costs. One recent Metro job had only one bidder and was 40% over budget.

Inasmuch as we had such short notice to appear here this evening, I was unable to collect examples of current Metro projects, but I believe that Mr McDonald's examples are in there. I did collect some on several school projects that are out to tender right now or are very recently closed.

For example, renovations to science labs in five schools in North York, relatively small jobs, I think probably a couple of hundred thousand dollars in value each, all were awarded to open-shop firms. None of them could bid if the

Toronto board agreements were spread under amalgamation. This illustrates that small public projects are typically of interest only to non-union firms.

Cornell Junior public school in Scarborough, out to tender now, value about \$5 million, four of the nine bidders have no union agreements, others have from one to six trade agreements.

David and Mary Thomson in Scarborough, science room renovations, value approximately \$600,000, 11 of the 13 bidders are non-union.

I could get other examples, given more time. Although these were schools, the statistics would be much the same if they were for a firehall or a city hall renovation.

Our association directors, from both union and non-union firms, strongly urge you to deal with this issue in Bill 136 such that no qualified contractor or worker will be denied access to publicly funded projects. We recognize that workers have the right to belong to unions in the public sector and anywhere else, but their employers, the municipalities, should not be denied the right to tender projects to all qualified firms, and taxpaying companies should have a right to build the projects they had to help pay for.

Even without amalgamation, we're on the threshold of a major problem as a result of that OLRB decision. Bill 136, we believe, can deal with it, and obliterate it or alleviate it, or can ignore it and allow it to multiply and bring larger problems for the future. Thank you. We welcome questions.

The Vice-Chair: Thank you. That allows us just over five minutes per caucus. We'll begin with the official opposition.

Mr Patten: I'm not sure I even understand some of the issues. Let me try and see what you're saying. You're saying there was a decision made by the Ontario Labour Relations Board that extends union collective agreements or union requirements for jobs to be done?

Mr McDonald: No. It affects the type of contractor that can bid a job.

Mr Patten: That's what I mean.

Mr McDonald: I have an example in there where in the past our firm has done work at Toronto city hall parking garage. Some 90% of the work on that job is labourers' work, for which the city of Toronto has no agreement, but a 10% component is carpentry; putting the hoarding up around the site is an example. The general contract requires that union workers do that hoarding for the contract, because there's a carpentry agreement with the city.

That general contractor, when the contract was let in the past, could bid on it and sub out that carpentry work to a unionized contractor to do the hoarding. The decision has changed the subcontracting clause in the Carpenters' collective agreement. It has interpreted the words "only contract and subcontract work out" from meaning that an owner can contract or subcontract out the work to somebody who is in a union to meaning that the general contractor has to be a member of the union.

Mr Patten: Whereas before, that wasn't required.

Mr McDonald: Before, that wasn't required. It has been the same on all Metro projects and all city projects for the last 20 years, and in the private sector as well. We are a client of the TD Bank, we bank there, we've done many jobs for them, and we're one of the ones who are already chopped out of that market by that decision.

Almost all these little agreements or these collective agreements, whether it's the Toronto-Dominion Bank or a municipality, are based upon a vote of two or three workers in a maintenance shop who go out and do some construction work and the application to certify is put in. In the case of the TD Bank, it was two workers. There might have been 500 workers, open shop, working for the bank as subcontractors, but because they weren't direct employees, the OLRB has seen fit to certify the company, and this clause will prevent them from subcontracting any work to anyone who is not in a union.

Mr Patten: So most of the small jobs —

Mr McDonald: Large and small.

Mr Patten: But particularly the small ones. I think it was Mr Cameron who mentioned that unionized companies wouldn't really be that interested in some of these smaller jobs, because they're not valuable enough and they have too many members perhaps, whereas a contractor who's an employee himself with one or two other people regularly and away they go, those are the kinds of jobs they have.

Did I also understand you to say that Toronto was a union-affiliated employer, and if you took the concept of expanding Metro to include all the new areas, other municipalities that weren't necessarily in the same boat would then become the successor?

Mr Cameron: We believe that's the inevitable thing that will happen in the expansion, that successor rights will encompass the municipality of Metro and the city of Toronto agreements in respect of the other municipalities, and so also the city of Toronto agreements with the Carpenters union may well also be acquired by all the other boards of education in the region. That's a huge extension, multiplying it by five or six.

Mr McDonald: But the principle extends beyond that. If there's a greater Toronto regional authority that encompasses Mississauga, let's say everything from Oakville to Oshawa and up to the north, all those non-affiliated municipalities will inherit Metro's contracts, so you'll have double expansion, both the new city of Toronto and the greater regional authority.

Mr Patten: You're addressing Bill 136 as it's written, not as the minister said she would amend it in major areas.

Mr McDonald: There's nothing in any of the amendments which would address the issue really.

Mr Patten: Nothing addresses it as far as I know on this particular issue. Is there anything in there that does at the moment?

Mr Cameron: Not that we're aware of. There's nothing that even gets into it. They deal with their own direct employees. It's this contracting out aspect that, as far as we can understand, is not there at all.

Mr Patten: Just one last comment, if I could, in that I'd be interested in a read from a ministry lawyer on this, because it might fit under some other piece of legislation that doesn't relate to Bill 136 at all, unless, of course, that's one of your amendments.

Mr Christopherson: Thank you, gentlemen. Is this a new clause in the Carpenters' collective agreement and that's why it was before the board, or was there a particular circumstance that triggered it?

Mr Cameron: I'm no labour expert by any means, but I understand that the same wording appears in the Carpenters' agreement, the Electricians' agreement and the Plumbers' agreement now, and rumour has it that it might appear in a whole bunch more next spring. I don't think anyone ever visualized it would have this kind of an application when it was first introduced.

It was first introduced and discussed in negotiations, we understand, in the mid-1980s, and it was really dealing with subcontracting between contractor and subcontractors, everyone thought, forgetting, I suppose, that people like the Toronto-Dominion Bank and the city of Toronto and the board of education in Lanark and a few others have these union agreements and how they might impact on construction purchasing.

We don't particularly have a problem with these municipalities and school boards having an agreement with their own employee carpenters; it's the application of it and the extension of it under this thing that's difficult.

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Mr Christopherson: What would you like the government to do under Bill 136 to resolve this from your perspective?

Mr Cameron: We're not politicians either, I'm afraid. Some days I'm pleased. If somehow the extension of the current agreements, as they apply to contracting out, could be excluded from anything that's happening in the amalgamation, that could be a solution.

Mr Christopherson: I would think the difficulty is that the boundaries are gone, which is of course your problem. The issue goes one of two ways: Either it will be applicable, as your people are interpreting it here, to the new city as successor rights or responsibilities, or the original decision, which in this case was in favour of the union's position, gets extinguished. So you do have two competing rights. As you see it, somebody is going to be a loser here.

I have to tell you that personally I'm thrilled. I think this is a wonderful idea, but that's a matter of one's perspective. Setting my own subjectiveness aside, I wonder what the solution is that doesn't impose a greater wrong in terms of rights being extinguished, because they did win. If it had gone the other way, I'm sure you wouldn't be here.

Mr McDonald: First of all, you can say they won but the context in which they won is an employer-employee context which the board operates under, not an owner-subcontractor-employee context, which is the way they're actually controlling the industry without controlling the workers.

In our submission here there are three remedies. One is messy, which is to say that for the purposes of the new city of Toronto or the greater Toronto region, we draw little lines in the sand and say that municipalities that have no affiliation now will not be successors in geographic areas, so the present rules that exist now will be limited to the present geographic areas, and that will be grandfathered for the future in whatever gets carried forward.

The other option is, from my view, not the intent of the Labour Relations Act. The Labour Relations Act is there to facilitate and permit workers to vote for unions if they see fit to have them. It gives them the choice in the proper context. This extinguishes the right for a large majority of the construction workers in the region.

Mr Christopherson: Of course, again, it depends whose ox is being gored and how you see things. The fact that it would be in the workers' best interests to join a union may seem wrong from where you sit.

Mr Cameron: That's very paternalistic. We had the Operating Engineers put in an application to certify us in the springtime. Thirteen people voted; four of them we knew. I had hired them. They had union cards. The vote was 11 to 2 against them.

We are a good company. We are model citizens as far as I'm concerned. There is nothing the matter with us. For us to work in this region, we will be forced and our workers will be forced. The board lets us sign an agreement and sign away the rights of our workers even if they don't want it.

Mr Hastings: This particular brief has alarming, enormous implications in terms of operational costs for the new city of Toronto. Do you have any idea what it would run in terms of the ongoing capital projects if things remain the way they're set out here, if there are no remedies undertaken?

Mr Cameron: I would take a wild guess, I suppose, and say it might on average increase the cost of their capital projects by 10% or something like that. There is no way of knowing. I don't even know what their budget is for the coming year, so I couldn't put a dollar figure to it, but that example I talked about where the difference was roughly \$1 million, if I'm not mistaken I think it was about a \$10-million job. On the other hand, some projects are tendered with union companies and open shop companies, and the union companies win out. So it's a very difficult thing to put a handle on.

Mr Hastings: From your reading of the TD Bank decision by the OLRB, do you believe the rendering of that decision clearly indicates that the OLRB has gone beyond its jurisdiction —

Mr McDonald: I don't think that's the issue.

Mr Hastings: — in that TD decision, which brings up this tertiary issue?

Mr McDonald: The decision is within their jurisdiction. The problem is a question of the mandate of the board. The board has no mandate to take third parties into account. It's dealing with the relationship between the employer and the employee, and basically the employee is trying to vote for a union. It doesn't have either the public

purse in there at all and it doesn't have third parties such as non-union firms that are affected by the TD Bank decision. They are outside the context. They don't come into the deliberations at all. They're just not there. Within their context, they made a decision based — it's a history of the little accidents throughout 20 years of board decisions that ends up in this, which I don't think was the intent of the original drawers of the legislation, but it's there.

Mr Hastings: Which one of the three options you laid out do you think has the greatest effect of rendering?

Mr McDonald: Fundamentally, I don't see why there's any need — Toronto is one of the rare places, like New York a fair bit down in the States as well, where the unions are much more heavily involved in local politics. There are no union clauses in public tendering. If they want the unions to have the influence so they can get their way in a jurisdiction, they put in a fair wage clause. Then it's open to anybody. But I don't see that it's right to be able to put a union restriction into a tender document. I'm a taxpayer. I should be able to work in my own province and have the choice of whether I want to be union or non-union.

Mr Cameron: Interestingly enough, the TD Bank decision didn't give any more or less work to unionized carpenters. The TD Bank had in their contract all along, even though they contracted out the overall project to a non-union firm, that all that carpentry work must be done by union carpenters, and people were doing that. The particular case in point was K&L Construction down in London. They were abiding by that contract to the letter of it and it still went to the OLRB.

We believe the union is building up a little arsenal of cases like this out in the suburbs, that being the one in London, and there's another one currently where a grievance has been filed in Lanark against a school board. There are indications that as soon as they get a little bit of the arsenal built up, they're going to come down and wave it in front of the city of Toronto and others. We've heard they're holding back until after amalgamation.

The current contracts with the city of Toronto say you must use unionized workers for those particular trades. Again, we don't particularly have a problem with that. They made those agreements freely and openly and every other way. That was fine.

The people who are being hurt by the application of this TD Bank decision are the companies that may be able to do the rest of the work. I used to be president of a small, unionized general contracting firm. I don't know hardly a company that would be eligible to bid this kind of work in Toronto. I think it's cutting out literally every firm. Those who have all of their onsite workers unionized still wouldn't be eligible to bid when that decision is taken to its inevitable conclusion.

The Vice-Chair: Thank you. That concludes your presentation time. We appreciate your coming forward.

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HUMAN RESOURCES PROFESSIONALS ASSOCIATION OF ONTARIO

The Vice-Chair: If the representatives of the HRP AO are ready, could you come forward and identify yourselves for Hansard.

Mr Mike Failes: My name is Mike Failes. I'm the chair of the HRP AO government affairs committee. I'd like to thank you for the opportunity to speak to you tonight about Bill 136.

There are some materials we've handed out. They are fairly brief. We tried to direct ourselves to the rapidly shifting face of Bill 136. It's a challenge to stay current.

Let me just make a few brief comments about the organization. I recognize a number of the members of this committee from previous appearances, so some of you may be aware of our group. We represent human resources professionals in Ontario. It's neither an employer group nor an employee group. I guess it's something in the middle. For better or worse, the decisions the Legislature makes which affect employees and employers in this province ultimately fall into the hands of our members in terms of administration and trying to deal with the fallout, and that's where our concern with respect to Bill 136 comes in.

In our written material, we tried to identify the key areas which have been identified by the government as possible amendments to Bill 136. Rather than rehashing all the legislation and fighting various fights, I want to try to focus our comments on those areas.

Let me start off by saying that it would appear the tribunal commission as originally envisioned by the bill is not going to be, and the duties, in essence, of the transition commission are going to be handed over to the Ontario Labour Relations Board.

We can certainly understand why organized labour would be suspicious of these bodies, concerned about them, and why they might be an impediment to a well-functioning piece of legislation. Ultimately, the decision to transfer these powers to the Ontario Labour Relations Board makes some sense.

I know organized labour has made this point time and time again, and they've got a point: The board has been around for years and has lots of experience in this area. But let me give you the big caution: The board has very limited resources. I have personally been involved in three mergers of private sector organizations over the last three years, two of which ultimately wound up proceeding at least as far as an officer hearing. In both cases, it is not a matter of weeks while this thing works through the OLRB system, it's a matter of months. In the last case it was a matter of almost six months before we had a labour relations officer sit down with the parties to try and resolve it. This isn't even a hearing.

This kind of delay, when you're talking about public sector restructuring, is going to be absolutely unacceptable. If someone for a moment thinks you're just going to

drop this on the OLRB without an increase in its resources, it's not going to happen. I think Mr MacDowell, the chair, made that point today in one of his speeches. Fine, have the OLRB look after these transition issues, but you better increase their resources and provide enough so that they can have their own specialized expedited procedures to deal with these issues.

With respect to what's going to happen with restructuring votes, it's not entirely clear what the government is planning here. I know they've said, "We're going to recognize the concern there be a secret ballot vote in every case to determine which union is going to represent people." That holds a lot of appeal, I suppose, from the sense of, "Let's do what's democratic and right here," but no one should be under any illusions. There have been mergers upon mergers over the last 40 years, which the OLRB has entertained, and I can tell you, there isn't a representation vote in every case.

They take a very pragmatic approach, and if one union has an overwhelming representation among the employees in the merged operation, there isn't a vote. If the Steelworkers merge with two other bodies, and the Steelworkers at the end of the day have 85% of the people and there's 5% non-union and 10% with the Labourers, there's no vote. The Steelworkers simply get certified. Keep that in mind when you're looking at these provisions.

The contents of Bill 136 now aren't that far off reality. I would suggest you should be fine-tuning those so there is certainty for people; we can do this quickly. If somebody's got 80% of the representation, why are you going to have a vote? It doesn't make sense.

The big problem we see for our members is trying to administer this while these restructurings go on with an air of uncertainty as to who is going to represent whom. It doesn't work in a merged operation. I know it sounds nice and easy to say, "Every collective agreement is going to apply to every group of employees." It just is not an easy thing to do when you've merged the operation.

The right to strike: I know that's been a big issue with respect to the bill. I want to say up front that from our members' perspective, in this very unique situation, we see the right to strike and the right to lockout as being extremely problematic. It would appear that's a done deal.

We came out early on and said we support the provisions which essentially would provide for what I would describe as automatic first-contract arbitration in this very unique circumstance. That's clearly gone. It's ironic. I was actually the policy analyst who was responsible for helping this very committee back in 1985-86 when they brought in the first-contract legislation for the first time. I can still remember every single union, including the OFL and CUPE, coming up here and telling us, "It's got to be automatic in a first-contract situation, automatic access to arbitration if it doesn't work out."

I can remember when Bill 40 came in. I remember Sid Ryan saying, "Gee, you've got to have automatic access." It's kind of ironic now that in what is the first-contract situation of all first-contract situations, the same people

who were saying automatic access five years ago and 12 years ago are saying: "No, we don't want to have any arbitration. We want to have strikes and lockouts."

It's going to be tougher than the normal first-contract situation, much tougher. I would agree that the best agreements are always the ones the parties negotiate. That's extremely obvious based on anyone who has got any labour relations experience. But in this situation there are going to be issues which are going to be almost unsolvable in terms of how these operations are going to be brought together and how these collective agreements are going to mesh. Without having a mechanism to resolve that short of a strike, you're going to have strikes and lockouts.

I know that one compromise is, "The first-contract arbitration provisions, as they currently exist in the act, will be there to assist the parties." If that's the intention of the Legislature and this committee, you better say that specifically. It's not 100% clear that would be the case, absent some direction from the legislation. I know there's been this public interest test and that may be of some assistance. The concern we have with that is that it's vague. Anything that's vague is going to lead to delays.

There are going to be problems. On behalf of our organization, I want to say we've got concerns about those problems.

There is an additional matter I wanted to address and that is the transition rules which are contained in the legislation. As I have read the press releases, at least, that's not a matter the government has put up for grabs. I'm talking in particular about the provisions in the legislation which provide for the orderly transition with respect to seniority under collective agreements. I can tell you that if there's one area you'd better make sure is looked after it's this area. There is nothing more sensitive and there will be nothing more irrational. Perfectly rational, reasonable bargaining agents will become irrational on this issue because of pressure from their members.

I just had a merger of an organization which had facilities in Midland and Barrie, looking after mostly disturbed children. They merged, brought everybody down to Barrie. OPSEU, a public sector union, normally would say, "Dovetail those seniority lists." Guess what, though? Barrie employees didn't want to. That's what happens. Everybody sees this from their own little narrow self-interest and the Barrie employees say: "No, we want to have super seniority. We want to be first." Ultimately we resolved this, but it won't be that easy when you're dealing with mergers of extremely large organizations with multiple bargaining agents.

On behalf of our members, we'd ask you to ensure that the provisions which are there now dealing with the early transition on seniority issues are maintained, and essentially provide for the dovetailing of seniority lists and the recognition of service regardless of the bargaining unit or whether you're outside of the bargaining unit. Surely that's fair and that's the way it should be.

I've tried to focus in on the issues fairly succinctly. I know it's late at night. I hope to leave you a little time to

ask questions and do this as quickly as possible, so please feel free.

Mr Christopherson: Thank you, Mr Failes, good to see you again. I always find your submissions interesting. I don't always agree, but they're always interesting and informative.

Mr Failes: I'm going to work on trying to get you to agree.

Mr Christopherson: Well, there you go. I appreciate your attitude and I'll try to be responsive.

Page 3, "Restructuring representation votes": You actually has me all the way to the end of the second-to-last sentence, which ends with the word "held," simply because you make the case that you just did verbally, that there's no real need to do this. Then you do kind of a 180 and say, "Nevertheless, in the circumstances, the HRP AO is prepared to support such an amendment." What happened in the last sentence?

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Mr Failes: Let me start off by saying I think that the best solution to this would be to refine the existing provisions of Bill 136 so that people are satisfied with the guidelines that are contained in there, where you don't need a vote, where everybody is satisfied that one party, one group, has an overwhelming majority, and therefore a vote is not necessary.

If everybody is going to say, "We can't agree on those numbers," then, fine, have the vote. If that's going to be a stumbling block here, there are other issues that are going to be even more important here. I don't know if you've got the time to do it, but that's the ideal solution. If someone could just spend a few minutes, take a look at the OLRB case law, it's not that hard to get some principles out of there. It really isn't, and it'll speed things up. If you want the optimum solution, that's the optimum solution. If you want to do the second best, then have the vote.

Mr Christopherson: Time is very restrictive in this case and it's probably the one commodity we just have almost not enough of.

I want to go to the previous page too, Dispute Resolution Commission. Again, you state in the second sentence, "It would appear that the government's intention is to have interest arbitrations continue to be resolved by arbitrators. In light of all of the circumstances" you "can support this amendment." I realize that you try your best to be as impartial as you can. I think there's obviously some bias that we all have and your organization would have, given the makeup of your members, but I do appreciate that professionally you try to bring forward information and thoughtful presentations that are as objective as possible.

Having said that, this really jumped out at me, given the fact that I would say — and obviously you'll disagree if you feel that way or you'll say so. But I would think anyone objectively looking at moving from arbitrators that are chosen from a consensus list versus arbitrators on a commission who are hand-picked by any government of the day, it is going to be seen to be less than fair and impartial. With that in mind — I'm very sincere — how can you feel that this is a suggestion that the unions under

any circumstance would agree with, or quite frankly, if you flipped it over, if you had a different government in, that employers might agree with?

Mr Failes: First of all, I hope you've read our submission, that you understand our submission. We're saying, "Look, we agree that you'll have to get rid of the Dispute Resolution Commission," which I think is your point; I think you're suggesting that's right. The reason, at the end of the day, if you're weighing it — first of all, I'm not so sure I agree that the commission should be seen as something hand-picked by the government of the day. That's like saying the OLRB is hand-picked by the government of the day. If that's the case, it loses all credibility.

Mr Christopherson: But it is losing credibility and you must know that because of the people they're removing from the board and putting on. That very issue is very hot today as you and I speak. Previous governments of all three stripes were very careful about balancing those boards.

Mr Failes: The Ontario Labour Relations Board has been around now for, I should know the exact number of years, but decades, and by and large has enjoyed enormous credibility with both sides.

Mr Christopherson: Yes. That's rapidly changing now. But go ahead.

Mr Failes: Well, I've got to be fair: There were suggestions of that during the NDP government as well and, from my perspective, there are certainly fair criticisms of the last two governments making this a little bit too partisan, at least the perception. Nevertheless, there are lots of very high-calibre appointments which have continued to be made under both of these governments, and I still think that the OLRB has enormous credibility with workplace parties.

Mr Christopherson: Fair enough, but under the current system, on the issue of interest arbitration, it's from a consensus list. That's gone with their method here.

Mr Failes: I would agree at the end of the day that there is so much concern on the part of organized labour that this is going to be a fixed commission, that it will undermine the legislation and just make it too hard to accomplish anything in a constructive fashion if you go with that model. That's why we're supporting the elimination of the commission.

Having said that, a very good case could be made that interest arbitrations, mutually selected arbitrators, aren't the best way to go. I don't know if that's a debate worth engaging in now, because I think it's a done deal that you're not going to go that route, that you're going to go with consensual arbitrators.

There are problems with consensual arbitrators because those arbitrators then come to depend upon the parties to get reappointed, and it's very unlikely they are going to make decisions which will encourage bargaining. They're much more likely to split the difference because they really want to get reappointed.

Mr Christopherson: What's the alternative?

Mr Failes: The alternative is an arbitration panel which is prepared to make decisions which one or both

parties may hate, but for the purpose of encouraging collective bargaining in the long term. But I'll grant you, it's very hard to set up a commission like that. It takes some very skilled people, and that just may not be in the cards right now.

Mr Christopherson: That comes across much different from what I see here. Again, as always, your submissions are —

Mr Failes: I did have five or six hours to put this together.

Mr Tom Froese (St Catharines-Brock): Thanks for coming. I think you will recall the Common Sense Revolution when it first came out and what we campaigned on. In there, we had said, and I quote, "We are unconditionally committed to reaching our goals, but we are very open to discussing how we get there." We've had more public hearings on some of our bills than either of the opposition parties. We have less bills, more public hearings. We've had more public input and more consultation than either one of the opposition parties.

As you know, the principles of Bill 136 are necessary tools for restructuring, for a smooth transition, dealing fairly with both the union and non-union employees, minimizing service disruption and giving better service at the lowest possible cost to taxpayers. With the amendments we're proposing, we feel we're addressing all the concerns of all the stakeholders — again, we're committed to that and we're up front with it — without sacrificing or compromising a single one of our objectives.

Getting to your written report, not your verbal report, on the right to strike on page 3, you say, "The best collective agreements are those which are negotiated by the parties, rather than being imposed by third parties." I couldn't agree with you more. But you go on to say that you have some concern in that you would ask the government "to amend legislation to allow strikes in the first collective agreement situation." It is your view "that special provision should be made in the legislation to extend upon the grounds on which first-contract arbitration is available."

I'd like to know why you're concerned about that, and I'm going to quote some quotes from Sid Ryan. He said, "We are prepared to find a way to guarantee that there will be no disruption in service when it comes to the transition period." In another quote, "I mean, if the real goal is, as stated, to ensure a smooth transition of services during amalgamations, we can guarantee that." Another quote: "If the real goal of Bill 136, for example, is to ensure a smooth transition with no labour disruptions, you know, I know myself, that our union can guarantee that."

Why would you have a concern or why would you want what you stated on page 3, special provision? There's a concern that maybe you don't agree with Mr Sid Ryan.

Mr Failes: I'm not sure which parts of that were questions. If you're getting a lot of criticism from both sides, as you may well be during these hearings, maybe you're doing the right thing. That's just something you might want to think about. Maybe you've truly found the middle ground.

Having said that, you will find no bigger proponent of the right of parties to negotiate, the importance of parties negotiating, their own collective agreements than our organization and me. I generally think that imposing arbitration, unless absolutely necessary because some overriding public interest is concerned, for example, the hospital, the firefighters, is just the wrong thing to do.

I'm very cautious with respect to the value of first-contract arbitration. I can tell you when I sat in this committee and we brought Paul Weiler in, who is, I think anyone would agree, one of the top experts in North America on labour law, and in fact was chair of the BC board when they had their first-contract arbitration, he emphasized the importance of not having automatic access to arbitration because it chills bargaining. Have a threshold.

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Having said all of that, the reason our members are concerned in this situation is because this is a one-off, hopefully never to be repeated, situation with enormous complexity. The parties will be faced with issues that they have never been faced with before and will never be faced with again, and in which there'll be incredible vested interest in various segments of the organization. You know right now the school boards that are amalgamating have issues over which computer systems they're going to use, and they're fighting about it. Wait until they start getting into serious labour relations issues.

If you don't have a mechanism in place to deal with that, there's a great potential for chaos in public services. Having said that, it may be possible to work within the confines of the first-contract legislation in the Labour Relations Act, to apply it in such a way that the parties are encouraged to negotiate as much as possible, and that will be minimized. But it's going to be a real change. That's why we were supportive of the original proposal. That's why we're concerned about this.

Mr Patten: Mr Failes, your submission to Bill 199 was far more extensive than this.

Mr Christopherson: They had all that time to prepare.

Mr Failes: Well, I was offered the 10 o'clock time slot today after 9:30 this morning.

Mr Patten: Now why is that? Were you caught short in terms of being invited here?

Mr Failes: No, I think that we actually are very appreciative of the opportunity. Given the time frames that were involved, we're just happy to be here.

Mr Patten: A diplomat.

Mr Hastings: He didn't bite.

Mr Patten: I'll put you down as a maybe. How's that? You talk about guarantees or certain obligations such as the right to final arbitration, whatever, and you're saying that undercuts collective bargaining. But you said there could be other thresholds. What are those other thresholds?

Mr Failes: One of the issues you're going to see coming up when you do these mergers is situations where various vested interest groups within the organizations

being merged, or within the employee groups which are part of the merger, want to protect.

Mr Patten: Sorry?

Mr Failes: Well, there are going to be vested interests. The obvious one, and I think the legislation deals with this, is seniority rights. But there are going to be other provisions. There are going to be different benefit plans, for example, different hours of work, wages, and trying to mesh these things it's not going to be simply a matter of doing what's right. There are going to be vested interest groups that are going to resist doing what's right and what's fair for everybody.

It's going to be very difficult for the parties to resolve, because even the bargaining agent, who, don't forget, may never have represented a significant portion of this bargaining unit before this year, is going to have a very difficult time getting control over the members or, in the case of the employer group, getting control over the different factions there. It's a kind of challenge that doesn't exist in normal collective bargaining.

If you're going to say we're not going to have automatic arbitration, we're going to preserve the right to strike and we're going to put this under the Labour Relations Act, all you're left with are the first-contract arbitration provisions. I'm not sure how well they're going to work, but it is possible that the board may be able to fashion an appropriate approach to encourage bargaining as far as possible. But I suggest to you it's a second-best solution.

Mr Patten: The minister said last night that she would — she didn't say to what extent or how much, but she said the Labour Relations Board would be given the resources to do the job, which was at least a commitment to acknowledge that they would need additional resources.

Now what's your bet? Do you see, and I've been asking this of almost each witness, because most people aren't sure what's going to happen and that's why the amendments before us, or that should be before us, are important — as a matter of fact there's more latitude now than I thought as of yesterday. I can see the ways in which the amendments are so important because they can deal with the contracts.

For example, they could just deal with revamping the Labour Relations Act or they could change the terms, which they would have to do, I suspect, so there would be amendments to that. Then the minister is saying she's transferring the functions and the responsibilities and, in asking her specifically about the criteria, she said also the criteria of the transition commission. It makes us wonder what's different other than saying, "We'll discard the commission and we're going to let the Labour Relations Board do the job."

Then it raises other questions of even the structures within the Labour Relations Board. It could be a special negotiating unit called the Labour Relations Board transitional unit. It could be meaningless in a fundamental sense. I think many people were thinking when it was to be transferred to the Labour Relations Board, it was under the existing ways of them carrying out their duties of

trying to resolve conflicts or disputes or collective bargaining processes etc. What's your view on that?

Mr Failes: I'm not sure which criteria would be transferred from the existing legislation to the Labour Relations Board.

Mr Patten: Ability to pay, or it could be the public interest.

Mr Failes: Those are all interest arbitration issues which, as I understand it, the board would not be dealing with as part of the transition. They'd be dealing with the restructuring of the bargaining units and so on. Presumably every interest arbitrator in Ontario could be bound by those criteria.

But with respect to the board, the advantage I would see in transferring this to the board, the fundamental advantage is twofold. Number one, expertise; number two, and I'd still say perceived neutrality as opposed to the perceived non-neutrality or bias of this new commission. If all of organized labour is going to think the new commission's fixed, you're just never going to have anybody moving forward on constructive issues. Those seem to be the two big advantages of getting into the board.

Mr Patten: A quick question, because my time's probably running out. It's a double question. One is the element of time, because it seems to me all parties seem to recognize the importance of that and budgets and the effect of the transition period coming into effect as of January 1, all those kinds of things, number one; and two, is it possible in your experience, to categorize issues that are, let's say, of A and B significance; in other words, as you say, negotiations of amalgamations of two school boards with two different computer systems, which I know of — that's exactly the situation in Ottawa-Carleton — or two different companies who handle their benefits packages, and what do they do under those circumstances, those kinds of things.

Some of those could be put aside saying, fundamentally under the terms of your contract and your benefits and your wages, this sort of thing, those we're going to work out as priority A, and the others will have some kind of a process of which they will be part to sort those out, and therefore you're able to simplify somewhat an extremely complex set of issues if you look at all of them combined.

The Vice-Chair: That just about wraps up. We have a couple of seconds left for a quick response.

Mr Failes: A quick response then. Number one, the legislation has already dealt with seniority. That's the one that's almost like the Gordian knot. You got to keep that. Beyond that, the biggest problem you're going to have is time when you try to operate under different collective agreements. If you can get a speedy resolution of which bargaining agent is in charge or which collective agreement applies, a lot of this stuff will work out in the wash.

The Vice-Chair: Thank you very much for your presentation.

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SUSAN ARAB

The Vice-Chair: I call the next presenter, a representative from Hamilton CUPE.

Ms Susan Arab: Thank you for the opportunity to speak on Bill 136. My name is Susan Arab. Dave Michar could not make it tonight, so he sent me in his place. I should say that I work for CUPE; however, the comments here are from myself as an individual.

The first point I'd like to make is how difficult it has been to comment on Bill 136, given that I don't exactly know what's going to be in Bill 136. I have the bill in front of me, I have the statements of the Minister of Labour and I have news reports. I'm going to take the statements at face value and I'm not going to deal with those aspects of the bill that the minister now says will be removed, such as the Dispute Resolution Commission or the Labour Relations Transition Commission. Clearly I have problems with those, but I don't want to waste my time talking about those particular issues.

I first want to start by saying that Bill 136 is an anti-union bill. It was an anti-union bill when it was introduced in June and it continues to be an anti-union bill, even with all the amendments that have been made. You can see it from the very beginning if you look at the purpose clause of Bill 136, in particular the third part of the purpose clause in schedule A, which states, "To encourage best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers."

I know what "best practices" means. It's a jargon term that's been put together by some management consultant and it doesn't mean what it seems to mean. It's used in Bill 136 to undermine the standard of living I believe we enjoy here in Ontario. Best practices compares the wages and working conditions of public servants with the wages and working conditions of less fortunate workers in Ontario. It says that unionized jobs should be eroded if there's a non-union person who's willing to work at that job for less.

I believe "best practices" implies that it's always better to pay less for somebody to do a job. What it seems to me the government is saying to so many public sector workers is, "You get paid too much, so we're going to cut your wages by \$3 or \$4 an hour."

There's always going to be somebody out there who's going to be willing to work at a job for less money, but this committee should ask themselves if we want to go down that road. We can start talking about workers in Thailand and workers in Mexico who get paid less than Canadians, but we're not going to want to compete with them for every good and service because then everyone in Canada will be out of work, our economy would be in tatters and we wouldn't be able to buy anything.

As a matter of fact, when you start looking at what the major economic indicators are in Canada and what we use to determine what is good in our economy, we look at buying power. Every economic indicator we have is based

on our population having decent jobs, getting paid decent wages. Housing starts, retail sales, bankruptcy statistics, unemployment levels, GDP: Every single one of these indicators is relied upon with respect to ensuring there are decent jobs paying decent wages. If you cut the money that people have to spend, economic indicators go down and the economy is in decline.

There is no shame in paying people decent wages for doing decent work. This is a principle of the union movement and I agree with it. People shouldn't undercut each other, but people should work together to ensure everybody gets decent wages and working conditions.

Let me say that any sort of purpose of one legislation which is to compare wages and working conditions of unionized workers unfavourably with those of the lowest common denominator is an anti-union bill.

I want to deal with a few of the specifics. First, on the right to strike, I understand the Minister of Labour has indicated the government will be reinstating the right to strike, and I'm very happy to hear that. I also understand from the minister's statement that they want a discussion on public interest criteria with respect to when should that right to strike be removed again.

It is my view that there should be no public interest criteria put forward. If there is a case of a strike that seriously jeopardizes the health and safety of individuals in the province, then the government has every power it needs currently to deal with that. That power is back-to-work legislation and it's not something I would advocate or condone on a regular basis; however, at least that sort of legislation becomes part of a public forum and a public debate where the government and Her Majesty's loyal opposition can decide whether this is actually in the public interest. Public interest criteria take that debate out of the public forum, and I think that is very wrong.

I also would like to point out that I don't think the strike-lockout mechanism is something that's going to be used very heavily during negotiations or is something that stops the parties from bargaining fairly. I think strike-lockout mechanisms actually help parties bargain fairly. Strikes result in periods of no pay for people; when they go on strike they don't get paid. So people do not go on strike for frivolous reasons. They go on strike for serious reasons because it usually means an extended term where they do not get any pay.

People will not walk off the job if they're not convinced of the importance of the issue and, conversely, employers know they risk a strike and a cessation of services if they demand unreasonable things. If they demand takeaways, if they demand major cuts in job security, then people will strike, but if employers are reasonable, then people will not strike.

It's the potential of a strike or a lockout that is the risk that ensures both parties work together to attempt to fashion a collective agreement that is reasonable and that meets people's concerns and needs. So I believe the right to strike is important and should be reinstated.

The next issue, which is extremely important because it doesn't seem to me the government has dealt with it as

extensively in its statements, is the whole issue of independent and fair arbitration. I'm concerned about the changes the government is proposing. I'm happy to hear the Dispute Resolution Commission is gone, but it's important that the interest arbitration system in this province remain independent and fair, and it cannot remain fair if it is not independent. I believe the proposed changes to Bill 136 do a lot to the detriment of the independence of the arbitration system.

I would suggest Bill 136 interferes with the arbitration process by telling arbitrators what they must consider. In particular, I want to refer back to the "best practices" criterion that is in the Bill 136 legislation. In addition to a whole host of other criteria that were implemented with respect to Bill 26, this is clearly geared I submit to forcing wages and benefits rollbacks on health care, police and firefighters.

I do not believe that criteria such as best practices or ability to pay are fair and impartial. No union would ever set as a standard in negotiations in the right-to-strike sector what the wages and working conditions were in non-union workplaces. People unionize to better their wages and working conditions. It's a fact of life that people join unions to better their wages and working conditions. Why would anybody look to a lower standard to negotiate a collective agreement? A union that did that would not be doing their job. So this criterion is not neutral, it's not non-partisan. It deals with the views of one party to the collective agreement, not the other party to the collective agreement. It is a criterion that is without any value in it; it is government interference against workers with respect to the binding arbitration system.

It's interesting to note that if you look back, the only public commission I know about that looked into the issue of interest arbitration was the 1974 Johnston commission. This came out after a series of illegal hospital strikes in the 1970s here in Ontario. It was commissioned by the Conservative government of the time.

One of the responses of the Johnston commission in the report was, and I just want to quote a little bit of it:

"In our view, government guidelines or ability to pay have no place as criteria for setting hospital compensation. Supporters of such criteria argue that as ability to pay is a factor in private sector bargaining, it is also relevant in the quasi-public sector. We consider the comparison invalid, because the absence of product market forces of supply and demand in the public hospital sector of the right to strike and lockout sanctions strips the ability-to-pay concept of any meaning it may have in the private sector.

"We do not deny that public hospital expenditures in Ontario are subject to some upper limit. Furthermore, it is quite appropriate for the Ministry of Health to inform hospitals and their contract negotiators of the estimated total government expenditures on public hospitals. However, such estimates should not be made public, should not be admissible as evidence to an arbitration tribunal and in no way should influence any settlement made by such a tribunal. Clearly such an influence might undermine application of the external comparability criterion. Further, as

long as employees have no access to the strike weapon to test the ability-to-pay pressures, ceilings should not be imposed upon them."

Even in a commission that was commissioned by the government, they argued that certain criteria should not be bound on arbitrators with respect to what their decisions were.

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I'm also very concerned with respect to interest arbitration that the government may be imposing changes on the arbitration process itself. I understand the Minister of Labour will be given the power to determine whether the parties engage in traditional arbitration, mediation arbitration or final-offer selection.

There are major problems with final-offer selection, and mediation arbitration does not always work. Also, I have some questions with respect to how a decision will be made. Will the government solicit submissions from the parties with respect to what is the appropriate method of arbitration in each individual circumstance, or will they unilaterally determine it without any input?

You would end up with additional delays to the arbitration process if you solicit submissions, and if you don't solicit submissions, then the government will not be taking into account the specifics of a particular bargaining situation. Why it is that the government wishes to force different forms of arbitration on to parties when the traditional form has been used and accepted for such a long period of time?

Workers covered by interest arbitration are deemed essential to the health and safety of this province, and as such, they should be seen for what they are, providing an invaluable service. We submit they should not face both a removal of the right to strike, which is a test of what they are worth to the public, and then be forced into an arbitration system and an arbitration board that is directed by legislation to disregard their interests and concerns.

No one in the community underestimates the value of our health care system, our fire departments or our police departments. However, it seems to me that Bill 136 singles out essential service workers, especially if the right to strike is unfettered. It singles out essential service workers for unfair treatment.

Finally, if the government wants labour peace, they should not try to mess with the arbitration system. If people feel they have no fair means of getting their interests met through an arbitration system, then they will strike. The reason, as I indicated before, that the Ontario government set up the commission in 1974 was a series of illegal strikes by workers who felt they were unhappy with the results of the interest arbitration system prior to 1974, and felt they weren't getting a fair shake. People will take matters into their own hands if they do not feel the course they have is fair, neutral or impartial.

I just want to make some final comments on pay equity, because it's very troubling for me to see this government propose that restructuring be used as an excuse to roll back wages of women. In my feeling, this is what Bill 136 does.

The pay equity legislation which was passed in 1987 provided for only minimum equal-pay-for-equal-work value. Employees in female-dominated classifications were compared to the lowest-paid, male-dominated job class. There were plenty of equal-value, male-dominated job classes that were paid higher amounts of money. The Pay Equity Act brought minimal pay equity into effect, but the Pay Equity Act also protected these women from ever losing what they had gained so that it would protect them against employers creating new, lower-paid, male-dominated jobs. It was a maintenance provision to the pay equity legislation. Now these protections are gone when public services are restructured and when there appears, in a restructured workplace, lower-paid, male-dominated job classes. This could mean reductions for many women.

In conclusion, I just want to ask elected representatives to think about something. Are you willing to stand and look at a cleaner at the Toronto Hospital and say, "I think you should get paid \$3 an hour less"? Are you willing to tell the woman who cares for your children that she is overpaid at \$25,000 a year? Are you willing to issue a layoff notice to a health care aide who has had 20 years of service in a nursing home because there is somebody out there who is willing to do her job for \$10 an hour? If you're not willing to do that, then you have to change Bill 136. Thank you for this time.

The Vice-Chair: Thank you very much for your presentation. I need to clarify something at this time. When I introduced you and stated you had 30 minutes, that was under the pretense that you represented the Hamilton CUPE union, and being that you stated you had individual views, under section 5(b) of the motion I'm dealing with you have 20 minutes. That allows us two minutes per caucus for questions and answers, and we begin with the government side.

Mr Froese: Thank you for coming — I think. Would it be fair to say you don't agree with anything this government is doing or has done? From your comments, it would appear so.

Ms Arab: There are a lot of things with this government I wouldn't agree with. I would have to look back over every single action that was taken by this government to say whether I disagreed with absolutely everything.

Mr Froese: In your comments you stated that you feel that wherever they work, unless employees are unionized, they don't get paid very well, they don't have the benefits.

Ms Arab: No, I would not say that. That's not my impression.

Mr Froese: You had stated that you feel, wherever they work, unless employees are unionized, they don't get paid very well, they don't have the benefits.

Ms Arab: No, I would not say that. That's not my impression.

Mr Froese: You had stated that the goal of the union is to get the best possible pay, the best benefits. I don't necessarily disagree with your group, CUPE or OPSEU. I don't necessarily disagree that those are the things you want to obtain, but some of the union groups have said, "Whatever it takes to get whatever we want."

I would suggest there are a lot of people who would disagree that just because you're in a union, you get the best paid job and the best benefits. I came from the private sector. We didn't have a union where we were, and we got a beautiful benefit package and a wage package. When we talked about the bill itself, it's about restructuring, it's about that smooth transition and dealing fairly with union and non-union employees.

Ms Arab: I'm not suggesting the bill is not about restructuring. I wanted to address the issues with respect to the collective agreements and collective bargaining, which actually have very little to do with restructuring. Schedule B of Bill 136 does deal with restructuring. I may have some problems with the way schedule B works, but I will admit it deals with restructuring and transitions between the mergers and amalgamations of municipalities, hospitals and school boards.

What I find hard to believe and understand is why we need to impose so many limitations on collective agreements and collective bargaining. The fact of the matter is that the limitations are not simply for a restructuring period. For essential service workers these amendments are going to be permanent.

The amendments to HLDAA, the Hospital Labour Disputes Arbitration Act, to the Police Services Act and to the firefighters act are permanent amendments. These are not transitional measures. The government did not put into place in Bill 136 legislation that would expire for hospitals, fire and police once the restructuring was over. The Bill 136 amendments were permanent amendments for the essential service workers. So it had nothing to do with restructuring or a transitional period. It had everything to do with changing the method of dispute resolution within the essential service sector.

Mr Patten: Thank you for your presentation. It sounded very thoughtful. Two quick questions: Would it have been helpful for you to have the amendments before you?

Ms Arab: It would have been extremely helpful, because it's hard to comment on something when I don't know what the t's and i's —

Mr Patten: It's difficult because I know in your comments you actually went back to some of the things the minister had addressed.

I would like to go back to your first statement, on best practices. I re-read the section under the purpose, and it says, "To ensure the expeditious resolution of disputes during collective bargaining." You probably have no problem with that statement.

Ms Arab: No.

Mr Patten: "To encourage the settlement of disputes through negotiations." You probably have no problem with that statement.

Ms Arab: No problem.

Mr Patten: "To encourage best practices that ensure the delivery of quality and effective public services" —

Ms Arab: I have a problem with the "best practices," because I understand what that —

Mr Patten: I didn't finish it: "that are affordable for taxpayers." I think that's the one that's the catch in this. Best practices can be best practices of professionals in their delivery of service. It doesn't necessarily mean the best practices related to your labour, work conditions. In other words, it could be interpreted in a broader way. But I take your point and I think it is a qualified thing. Its motivation is around economics and money and saving thereof, and providing a tool for employers, be they municipal or hospital or educational or whatever. That qualifier there is sort of the tip-off, and I agree with your statement. Do you take at face value what the minister says as being what will happen?

Ms Arab: Do I take it at face value? If I had the amendments I could see what was specifically meant. Some statements were very clear and I take those at face value. Some statements could be interpreted in different ways. It's hard to know exactly how to interpret them until you see the amendments in front of you.

Mr Patten: I have some worries about it, because even where it says, "We will take away the dispute resolution," in the next breath the minister says that she's going to take the functions, duties, criteria, and pass it over to the Ontario Labour Relations Board, or in the case of police — what is it called, the arbitration commission, whatever it is — and that what's happening is that the same criteria by which they would function are being carried over to this area. It could be read that way.

Ms Arab: Yes.

Mr Christopherson: That was an exceptional presentation by any measure. I watched and you didn't glance at your notes very much at all. Obviously you have an excellent understanding of what's going on, history, and have thought through your own beliefs and values. Obviously I share just about every one of them. I really thought it was a fascinating presentation.

Before I ask you a question, I wanted to comment on Mr Froese, because he made a valid point when he said that there are some exceptional non-union employers who pay very good wages and benefits. But I would say to him there are reasons for that, and two of the main reasons would be that they're either afraid of having a union in there and it's a strategic move — I'm from Hamilton; Dofasco has done that for decades. They always waited until the United Steelworkers of America, Local 1005, negotiated with Stelco and then they used to pay traditionally two cents an hour more, and they matched virtually everything else. The goal was, "You don't need to go on strike; you'll always get what they get and you don't have to pay union dues." That's now changing but that was part of their system.

The other thing is, if it's not a contrived attempt by an employer to keep the union out, then an exceptionally good employer is looking around for a benchmark. They're saying, "I want to pay my employees decent wages and benefits," and they'll say, "That seems to be the predominant rate in union shops where they've got really what's seen as good wages and benefits." So I have

trouble with the fact that it's out of the goodness of someone's heart. There's usually a good reason for things.

Having said all that, I would ask you just one simple question in whatever seconds I've got left. In your opinion, why do you think the government backed down on just about all the major aspects, except for pay equity and the employee wage protection plan? On all the major aspects, they seem to be running up the white flag. Why do you think they've done that, assuming it holds true in the amendments?

Ms Arab: I think they face pressure from the public on this. It's hard to continue with legislation that has faced widespread criticism, and it did face widespread criticism. It faced criticism and it still faces criticism from a whole host of groups and organizations and interests, from an editorial in the *Globe and Mail* to a resolution by the Association of Municipalities of Ontario to vehement

opposition by trade unions across the province, and numerous other cases.

There was opposition there and it became apparent the opposition was quite widespread and quite deep and the government listened to that. I still think there's more to listen to and there's more that needs to be done, more changes that need to be done. You should ask them.

Mr Christopherson: I'll be curious to see what history writes about it. That's why I'm interested in what people think now, because it is somewhat hard to figure out.

Ms Arab: I think it's the widespread opposition.

The Vice-Chair: Thank you very much for your presentation. That concludes this evening's committee. We stand recessed until 9 o'clock tomorrow morning.

The committee adjourned at 2123.



STANDING COMMITTEE ON RESOURCES DEVELOPMENT

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Also taking part /Autres participants et participantes

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Jeudi 25 septembre 1997

Standing committee on resources development

Public Sector Transition
Stability Act, 1997

Comité permanent du développement des ressources

Loi de 1997 visant à assurer
la stabilité au cours de la transition
dans le secteur public

Chair: Brenda Elliott
Clerk: Donna Bryce

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Thursday 25 September 1997

Jeudi 25 septembre 1997

*The committee met at 0902 in room 151.*PUBLIC SECTOR TRANSITION
STABILITY ACT, 1997LOI DE 1997
VISANT À ASSURER LA STABILITÉ
AU COURS DE LA TRANSITION
DANS LE SECTEUR PUBLIC

Consideration of Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act / Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.

ASSOCIATION OF ALLIED HEALTH
PROFESSIONALS: ONTARIO

The Vice-Chair (Mr Jerry J. Ouellette): Good morning. Could you identify yourself so Hansard knows who you are. You have 30 minutes for your presentation. At the end of your presentation, the time is divided equally between the three caucuses to ask questions. You may begin.

Ms Catherine Bowman: My name is Catherine Bowman and I'm the executive director of the Association of Allied Health Professionals: Ontario. AAHP:O is an independent union which represents only health professionals. It is the only union in the province that represents only health professionals, paramedicals. We were founded in 1975 and today we represent over 2,300 health professionals in 45 bargaining units across Ontario.

The vast majority of our members are covered by the Regulated Health Professions Act and as such they are registered by a college. Approximately three quarters of our members are employed by hospitals. The remaining one quarter are employed by community agencies such as public health units and community care access centres. Over 85% of our members are women.

Of the classifications that AAHP:O represents, the main ones are dietitians, medical laboratory technologists, occupational therapists, pharmacists, physiotherapists, psychologists/psychometrists, respiratory therapists, social workers, speech-language pathologists and audiologists, and X-ray technologists.

With all due respect to the members of this committee, we believe that this consultation process is fundamentally flawed. The minister promised in June to hold full public hearings across the province, yet we are seeing only four days of hearings in Toronto. In addition, there is insufficient time allocated for the detailed clause-by-clause analysis of this very complicated bill which will have major implications on several hundred thousand broader public sector employees and several hundred employers.

Although we have had several months to study the bill as it was originally tabled, the government recently announced major amendments and has not made the details available to affected parties, such as ourselves. In fact it is our understanding that those amendments will not be made public until after the presentations to this committee are concluded. This makes it difficult for us to comment in a meaningful way on any of the specifics in the bill.

Notwithstanding this, we believe it is important to go on record with the concerns of AAHP:O members. As a result, this presentation will emphasize the following basic principles.

The independence and neutrality of the Ontario Labour Relations Board must be preserved and its jurisprudence and rules must be acknowledged and respected.

In the event of a conflict in bargaining rights following restructuring, employees must have the right to choose which union will represent them.

Historical bargaining unit structures must be preserved.

Employees who are denied the right to strike must have access to a fair and independent arbitration system to settle the terms of their collective agreement.

Public sector employees must not be made to pay for the restructuring of the broader public service.

Any new arbitration rules must not be applied retroactively.

First and foremost, we believe that Bill 136 is not necessary. As far as hospitals are concerned, passage of this bill will have the opposite effect of that intended by the government. It will lead to turmoil and disruption in the workplace instead of providing a smooth transition.

Health care restructuring, in both hospitals and community agencies, is an ongoing process and it will be continuing for quite some time. The OLRB has been dealing with labour relations issues arising from hospital mergers and amalgamations for several years, long before the Health Services Restructuring Commission began issuing its directives. AAHP:O has been directly involved in several of those cases, and the current system is working. Any complaints about delays can be attributed to the lack of resources provided to the OLRB through funding cuts of over 40% in the past year, not to problems with the legislation.

Recent OLRB decisions on hospital restructuring, along with the OLRB's long history of sale-of-business decisions, provide invaluable guidance to parties in a dispute. When the parties know in advance how the board has ruled in similar situations, there is less of a tendency to litigate and more willingness to negotiate. This is what expedites the resolution of issues. On the other hand, it takes time and costs money to test new legislation and to develop new case law. This is time and money that the health care system cannot afford.

The Minister of Labour has stated that the government's amendments will replace the LRTC with the OLRB because it recognizes that the OLRB "has a long and trusted history of independent and impartial adjudication." It is not acceptable for the government to transpose the rules of the proposed LRTC on to the OLRB. The board must be free to operate without any perception of political influence or bias. If the proposed rules for the LRTC are imposed, even for a limited period of time, it will effectively wipe out the board's existing jurisprudence, and that is what provides stability in the system now.

In order for the board to enjoy the confidence of both labour and management, it must be perceived to be fair and willing to take into account and balance both sides to a dispute. This means that representatives from both labour and management must continue to be appointed in equal numbers to the board. In addition, board appointments cannot be at the pleasure of the government, as that would unduly influence the ability of the board to issue impartial decisions.

The OLRB is in the process of developing and clarifying its jurisprudence regarding which collective agreement applies following a post-merger representation vote. It has also dealt with the seniority of non-union employees when the parties have been unable to agree. There is no need to make special provisions in the bill to deal with these issues.

Employees deserve the right to choose their union. Currently, health care workers continue to be represented by their current union and covered by their current collective agreement when their employer merges with another employer, until the labour board decides otherwise. If, as a result of this, there is a conflict between unions, ie, two unions which have bargaining rights for the same employees, there are already provisions in the Labour Relations Act for sorting this out. Normally a secret ballot vote is

ordered and the affected employees get to choose which union will represent them.

The minister has promised that employees' choice of union representation will be determined by a democratic, secret ballot. In order for this promise to be fulfilled, there can be no percentage thresholds for unions to meet in order to get their name on the ballot.

0910

When hospitals merge or community programs are transferred from one employer to the other, the government does not tell employers which lawyer or accounting firm to represent them following a merger. When electoral ridings are merged, the government does not tell constituents which MP or MPP will represent them. Likewise, the government should not be interfering with the rights of workers to choose their bargaining agent or union.

All unions are not alike. They come in different sizes, cover different jurisdictions, have different membership bases and are structured quite differently in terms of decision-making and representation. Unions also differ in terms of their politics and collective bargaining philosophy. All of these things are taken into account when employees decide which union they want to represent them.

The health professionals which AAHP:O represents tend to function quite independently in the workplace and have high levels of responsibility. They work in multidisciplinary teams and require flexibility in the performance of their job duties. It is important that health professionals are represented by a union which understands their special needs and interests. Their collective agreements need to reflect these different needs. This helps them provide high-quality health care to the public.

Any legislation that fetters the ability of the OLRB to rule according to sound labour relations practice must be avoided. This is especially true for the structure of bargaining units in hospitals.

There are very well established standard hospital bargaining units which reflect the community of interest among different groups of employees. These date back to the early 1970s. At that time, the Conservative government of the day established a special commission which issued the Report of the Hospital Inquiry Commission, or the Johnston report, in late 1974. The Johnston report confirmed several existing hospital bargaining units, such as nurses and service units, and recommended that all paramedical employees, or health care professionals, be included in a separate bargaining unit. That recommendation was acted upon by the labour board in 1976, following an extensive hearing into the nature of health care professionals' work and the application of established tests regarding community of interest.

Broad powers were to be given to the Labour Relations Transition Commission to determine the number, scope and composition of bargaining units. These should not be imposed on the labour board. Hospitals are not industrial plants and they should not be treated as such. Bigger is not better, and it is important that the bargaining structure

reflect the very real differences between groups of employees.

The Minister of Labour has stated that the government's amendments will recognize the importance of continuing specialized bargaining units for professional staff. Although this statement was made to allegedly identify or raise concerns from nurses, the same concerns apply to paramedical employees, who have enjoyed the same status of a specialized bargaining unit.

Health care workers are entitled to fair and impartial arbitration. Right now there is tremendous fear and uncertainty in the health care sector. I cannot emphasize that enough. Workers are already struggling to cope with increased workloads brought on by staff cutbacks implemented in response to successive years of funding reductions. In addition, the rapid pace of restructuring, which is being imposed on hospitals by the Health Services Restructuring Commission and on public health units and community care access centres by government policy, has left everyone reeling. This is all having a negative impact on patient care.

What health care workers need to know is that at the end of the day, no matter who ultimately ends up being their employer, they will be treated fairly. They need to know that their rights will be protected and that they will not lose their union or be swept into another union or merged with another group of employees against their wishes or without their knowledge. Health care workers should not have to be constantly worrying about their jobs and should be allowed to concentrate on providing high quality patient care.

AAHP:O believes that the right to strike is essential to free collective bargaining, but the majority of our members work in hospitals. They have not had the right to strike for over 30 years. Instead, they are covered by the Hospital Labour Disputes Arbitration Act, or HLDAA, and they must rely on binding arbitration if there is an impasse in bargaining for a collective agreement.

The Minister of Labour has stated that the government's amendments will eliminate the DRC and will return to the current legislative provision governing the appointment of arbitrators. She does not say that she will remove the new legislative criteria that will fetter the independence of arbitrators and restrict their ability to make fair and neutral decisions.

Natural justice, fairness and due process are all critical components of an arbitration system that have not yet been acknowledged by this government. In returning to the current system of appointments under HLDAA and in making the promised provisions for expedited arbitration and the use of other forms of arbitration, these principles must be upheld.

In setting time lines in HLDAA, care must be taken to ensure that these are workable timelines that all the parties can meet. There are already time lines in HLDAA but they are seldom followed because they are unrealistically short and the enforcement mechanisms inappropriate. Issues arising from restructuring can be quite complex and it is important that boards of arbitration have an oppor-

tunity to properly deliberate over them. Rushed decisions to comply with arbitrary time lines can have serious consequences.

Health care workers are taxpayers too and they should not have to pay twice for the cost of restructuring the health care system. They already contribute through their taxes and should not be forced to contribute through roll-backs of their compensation and benefits. This clearly is the government's intention with the introduction of even more criteria for interest arbitrators to consider when resolving a dispute. Arbitrators have long found that the ability to pay in the public sector is really a desire to pay on the part of government and that employees should not have to subsidize the system through substandard or unfair wages. Any savings to be realized from restructuring the health care system need to be extracted from waste and inefficiencies, by eliminating duplication, not by making it easier for employers to gut collective agreements.

Bill 136 also contains provisions to remove or further weaken employers' obligations regarding pay equity. This is another blatant attack on existing employee rights. As a member of the Equal Pay Coalition, AAHP:O endorses the position taken by that organization.

Bill 136 seeks to amend Section 17 of HLDAA to terminate existing proceedings under that act in two cases: if no hearings were held before June 3; or if hearings were held and a final decision has not been issued by the time the act comes into force. Furthermore, the minister notified workplace parties in a letter dated July 15 that the government intends to introduce amendments to strengthen this provision.

The effect of this provision will be to require the parties to a dispute to start the process all over again from the beginning. This will be quite devastating in some situations, especially where the parties are waiting for a decision that has nothing to do with restructuring. As there is no longer going to be a DRC, there is no longer any need for this provision.

There are already unavoidable delays in the arbitration system. To require parties to start every arbitration process all over again from the beginning does not make any sense. It will also make it more difficult to sort out collective agreement provisions following a merger. This in turn will perpetuate the labour relations problems from which employers are seeking relief, ie, it will prolong different working conditions and terms of employment covering the same classification of employee.

There are many more concerns that we could list but I'll just reiterate the ones we have highlighted: Bill 136 is not necessary; OLRB integrity and jurisprudence must be maintained; employees deserve the right to choose their union; historical bargaining unit structures must be maintained; health care workers are entitled to fair and impartial arbitration; employees should not have to pay to restructure the system; there must be no retroactive application of arbitration changes.

These are not just the concerns of a union leader. These are concerns that have been expressed time and time again by our members across the province. As proof of this and

to support this presentation, we are submitting petitions signed by hundreds of AAHP/O members which call for a repeal of Bill 136 because it is an unjustified affront to their basic democratic rights.

0920

Mr Richard Patten (Ottawa Centre): Good morning, Ms Bowman. Thank you for your presentation. At the outset, it's very clear and thoughtful. You've probably been working right up to even some of the presentations yesterday to be so up to date because many witnesses, it was apparent yesterday, were handicapped by not having some of the specifics of what the government wanted to do.

Yesterday many people did identify concerns, but I haven't heard anybody as specifically deal with the concern related to the transfer of the powers or provisions or criteria from the transition commission to the labour relations board. Frankly, that's our big concern as well, that it could be transferred lock, stock and barrel, and if it is, then it really wouldn't change very much. You've articulated that quite clearly.

You acknowledged that the provisions on time — that there would be an acknowledgement of time. What was the other provision you mentioned? That obviously people had to get on with respecting some of the time lines because the restructuring will take effect in most instances by January 1, not necessarily in your sector in every case.

Ms Bowman: There is no finite date that we have to work with respect to restructuring.

Mr Patten: That's true. In terms of municipalities, of course, there is, because of elections and because of a January 1 deadline. I'm trying to find in here the two areas that you mentioned. You mentioned in relation to your own area that there already was a special bargaining unit in place. You want to see that maintained.

Ms Bowman: That's correct.

Mr Patten: Would you see that one as fulfilling the complete job? My worry is that they might put another special bargaining unit in place that would handle other areas, or maybe a series that would deal with different sectors.

Ms Bowman: As I indicated, there have been over 20 years of history with the labour board with respect to the structure of hospital bargaining units and they are fairly well defined. Where there are anomalies it's because of organizing that took place prior to precedent-setting cases by the labour relations board.

Our concern would be if there was a tendency to move to all-employee bargaining units or to group together employees that have traditionally bargained separately, because their needs are quite different.

Mr Patten: You were saying that sometimes these negotiations or arbitrations drag out for a long time.

Ms Bowman: Yes, they can. Would you like a specific example?

Mr Patten: Yes, please.

Ms Bowman: This is a restructuring example and gives you an example of the complexity of the situation

with which the board is dealing. A decision has already been issued on this by the labour board.

We were certified to represent a group of employees at one site of a newly merged hospital in November 1995. In April 1996, at the other site for that hospital, that hospital became a successor employer for another group of paramedical employees that had been previously represented by our association at another hospital. We now had two separate bargaining units in this single hospital, two sites. One had a collective agreement; the other one was negotiating for a first collective agreement.

There were concerns raised by the employer with respect to intermingling of employees, so an application was made to the labour relations board to try and deal with this issue. The board did deal with that issue and ordered a vote. In May 1997 we won that vote to represent the paramedical employees at both sites of that hospital. In winning that vote, we assumed the bargaining rights for employees who had previously been negotiating a first collective agreement with another union, as well as employees who were covered by a previous collective agreement for another union. So we now have a single bargaining unit which is encompassing theoretically four different types of employees.

We have an arbitration date scheduled for November 1997. Our concern is that if there are provisions in this legislation that will remove that November 1997 date, it will then set the parties back several months in terms of having to reschedule and appear before an arbitration to deal with the problems that are facing us, very real problems from a labour relations point of view.

Mr David Christopherson (Hamilton Centre): Thank you very much, Ms Bowman, for your presentation. I noticed on page 3, item 5, you state, "Public sector employees must not be made to pay for the restructuring of the broader public service." And further, at the bottom of page 8 and top of page 9, you state: "Any savings to be realized from restructuring the health care system need to be extracted from waste and inefficiencies, not by making it easier for employers to gut collective agreements."

Can you just expand on that? Obviously I'm interpreting this to mean that you believe the purpose of 136 was to do exactly what you're saying should not be happening.

Ms Bowman: That is our belief, yes. We believe that Bill 136 is all about money and power. The concern we have is that the legislative criteria and the fettering of the independence and impartial decision-making powers of interest arbitrators will allow employers to appear before arbitrators and argue it is in the best interests of the public, because this is all the money the government is willing to provide us, to roll back the wages and benefits of our employees, in effect saying we've been overpaying them all these years. In the last few years, in terms of bargaining, those kinds of rollbacks have been finding their way to the bargaining table. We do not believe it is appropriate to pay workers in the system unfairly because the government is unwilling to properly fund the system.

Mr Christopherson: I would add that if one takes a look at the whole litany of labour legislation that this

government has enacted, everything is about either watering down the strength of unions that represent workers or, as in the case of the Employment Standards Act, removing their rights directly.

The government constantly points to the fact that they're not trying to do what you just said. All they're trying to do is to make things better for patients, somehow suggesting that patients aren't workers and that workers can be labelled "special interests," that patients and taxpayers are somehow a separate group of society that they're defending in the face of all you special interests.

On page 7 you talk about what has already left your community reeling, as you say. You state that this is having a negative impact on patient care when you talk about the funding cuts and the rush with the Health Services Restructuring Commission. What's happening, in your opinion, right now to patient care as a result of the actions the government has taken, notwithstanding all these problems and fearmongering that they propagate is going to happen if they don't step in with 136?

Ms Bowman: It's our opinion that patient care is deteriorating. I think you just have to talk to people who are having to utilize services. Despite the best intentions on the part of workers in the system, who are working as hard as they can, there is no question that the fear and uncertainty are undermining their ability to do their work.

Mr Christopherson: Everybody who has come forward representing workers has consistently pushed the message that all they want is fairness. They want impartiality, they want neutrality, they want — you've used the word "unfettered" decision-making. Are you seeking any kind of special consideration in labour legislation? Are you suggesting there is some kind of imbalance that needs to be corrected by virtue of you having special rights, or are you, like others, suggesting that all you want is natural justice and fairness?

Ms Bowman: We do not believe that any special legislation is required because the labour relations board is constantly evolving its jurisprudence and has already been working. The difficulty we have is that we see that the labour board is already under the political influence of this government. That is a concern we have. We would like to see a return to a free and open appointment process, and we think that will go a long way to restoring confidence in the labour board.

0930

Mr Bart Maves (Niagara Falls): Thank you very much for your presentation this morning. The Ministry of Labour has had a lot of discussions in the last few days with different groups. I wondered if your group had had an opportunity to be briefed and have a discussion with the Ministry of Labour.

Ms Bowman: No, the Ministry of Labour has not seen fit to meet with our organization. We are not affiliated with the Ontario Federation of Labour, and it is my understanding, notwithstanding the fact that the government is saying it is negotiating with that organization, that it is only providing them with some technical briefings. We have had access to the minister's statement in the House

and take on face value the promises she says, that she is granting unions everything they are asking for. With all due respect, I want to see the writing on that.

Mr Maves: Have you made the request to the Ministry of Labour to have a briefing?

Ms Bowman: We made requests when this legislation was first tabled.

Mr Maves: But since then?

Ms Bowman: Since then, no; a specific request to meet with the minister, no. We were led to believe in June, when the minister said there would be full public consultations, that that was the process where we would provide input.

Mr Maves: I suggest that you might make that request. You might be able to get a briefing.

Ms Bowman: Are you saying that the Minister of Labour would agree to meet with us just because we asked?

Mr Maves: No, the Ministry of Labour is having briefings. It's not necessarily the minister who is conducting those briefings right now. I would suggest, if you are interested, that you make the request to the Ministry of Labour and see if they can't brief your organization.

Ms Bowman: Again, I think the briefings are not what we're looking for. We're looking for the detailed language of the amendments.

Mr Maves: The reason I say that is because in your brief, when you talk about historical bargaining units being structured, being preserved, you are right to say that the LRTA talks about the rationalization of units. You have also gone on to say in your brief that the minister has said that "specialized bargaining units for professional staff" will be dealt with. In your brief you say that's got to do with nurses. My only comment is that the comment obviously extends to groups like your own and you should try to make that point clear in every possible way besides just submitting the brief. That's the only reason I'm advising that.

The other thing is, the OLRB jurisprudence and rules will be acknowledged and respected. They will also, as you have said, have some new provisions under the LRTA which guide them; for instance, the request that they look at rationalization of bargaining units where possible — that's tempered by the minister's statements, as you've already mentioned — and new rules around seniority for non-union employees. I don't imagine you would have a problem with those in particular. I don't think many people in the labour movement have had —

Ms Bowman: Have had problems with granting seniority rights to non-union employees?

Mr Maves: Right, if there are mergers.

Ms Bowman: I think there is a difficulty with putting into the legislation how to deal with seniority issues. Our preference would be to restore the ability of the labour relations board, as was done in Bill 40 and removed in Bill 7, to deal with this issue. We have been a party to agreements dealing with the issue of seniority of non-union employees, and in some places they got it and in some places they didn't. It depended on the circumstances.

At the end of the day, if the parties can't agree, I think it should go to the labour relations board to deal with the issue in terms of what makes sense from a labour relations perspective.

Mr Maves: I've had several indications of agreements that couldn't be met. One was 11 years or something like that from the OHA in one instance on seniority issues. So in our opinion there needs to be some sort of direction on that.

On another page, you talk about no percentage thresholds for unions to meet in order to get their name on the ballot. Right now the LRTA says that if all agents don't agree on the new bargaining units and the new bargaining agents, then there will be a vote. Do you not feel protected by that? The minister has said the thresholds are going to be removed, with the exception of the 40%, and now it will be that all bargaining agents must agree on new agents. If not, it goes to a vote.

Ms Bowman: I'll give you an example of our unease. If you've read the directives of the restructuring commission with respect to Toronto, for instance, you will know that for some hospitals they are basically taking programs and splitting them among four or five different hospitals in terms of rationalization of services. If those employees are currently represented by a bargaining agent and they are then transferred, say, in twos and threes or even as individual employees to another hospital where the same kinds of employees are represented by another bargaining agent, it may not make sense to force a vote in that situation. It would make sense if there were a disparity of numbers, but if you're looking at two or three people and a group of 100 or 200 people, to have in the legislation a requirement that in every instance when there is a transfer there will be a vote — that's why we would prefer to defer to the judgement of the labour board, which has dealt with those kinds of situations in the past.

The Vice-Chair: That ends your presentation time. Thank you very much for your presentation.

ONTARIO SECONDARY SCHOOL
TEACHERS' FEDERATION,
DISTRICT 21

The Vice-Chair: For the next presenter we will now be moving to Ottawa. Good morning, Ottawa.

Mr John McEwen: Good morning, Mr Ouellette and members of the committee. My name is John McEwen. I am past president of District 21, OSSTF. I appear on behalf of Greg McGillis, the district president.

District 21 consists of approximately 350 members who work for the Stormont, Dundas and Glengarry public school board. On January 1, 1998, we will become employees of the Lanark, Leeds and Grenville, Prescott and Russell, Stormont, Dundas and Glengarry English Language Public District School Board. The OSSTF members employed by this new board include teachers, occasional teachers, education assistants, psychologists and many others. These individuals are justifiably con-

cerned about the creation of this rather unwieldy school board entity and equally concerned about the application of this proposed legislation on their jobs, their union membership and their collective rights. A majority of the people we represent, of course, are affected by Bill 160, and that is a concern for another venue.

District 21 would like to thank the committee for this opportunity to comment about Bill 136. We would, however, like to place on the record the following:

Twenty-three hours ago, we were informed of this opportunity. We were told that the date and time, 10:30 am, were fixed; take it or leave it. Twenty hours ago we were told that the time would be moved up to 10 o'clock. Again it was non-negotiable. I note that the time is 20 minutes before the hour.

On September 18, 1997, the Minister of Labour issued a statement which promised substantial revision to Bill 136. As this is being written, some 12 hours before the presentation, the promised amendments have not been made available to us. The minister, I am told, now says next week. Thus, we have been asked on incredibly short notice to make observations on a piece of legislation which, from the minister's statement, is substantially different from the printed version. One might well wonder as to the purpose served by appearing today under these conditions. Nevertheless, the legislation will have a significant impact on our members, and on their behalf we gladly take this opportunity to speak despite what I consider to be the odious circumstances.

Bill 136, the Public Sector Transition Stability Act: This legislation in its printed form was repugnant to our members and would be resisted.

The Toronto Star editorial of June 5, 1996, provided a dead-accurate assessment of that legislation: "The Public Sector Transition Stability Act is part of a worrisome trend of beating up on public servants, of making them scapegoats for governments that have difficulty meeting their commitments." The editorialist concluded by appealing to the public to resist both this trend and Bill 136.

0940

The Star also stated, "We should all demand that the people who provide valuable public services enjoy the same rights to bargain decent working conditions as everyone else." We expect that the government will respect the fundamental democratic rights of union employees in our school board during the transition process in any applicable legislation.

The minister's statement about the included amendments seemed appropriate to that end. Her statement included the following assurances: the removal of the proposed restrictions on the right to strike; upon restructuring, free collective bargaining would apply for a first collective agreement, and the first-contract provisions of the Labour Relations Act would also apply; reference to the Dispute Resolution Commission would be eliminated; a return to the current legislative provisions governing the appointment of arbitrators would occur; using the Ontario Labour Relations Board to perform the functions and

responsibilities of the proposed labour relations commission instead of what Bill 136 originally would have done; using expedited arbitration and other forms of arbitration under the current arbitration system; and finally, she gave assurance that following restructuring, employees' choice of union representation would be determined by a democratic secret ballot. We support those principles. We hope they will be implemented in the amendments to be tabled next week.

I'd like now to take a moment and make some observations about each of those principles, first of all the removal of the proposed restrictions on the right to strike: The removal of the right to strike as provided for in Bill 136 would almost guarantee, the way Bill 136 was structured, that employers would apply to the Dispute Resolution Commission for relief in settling unresolved issues. In fact, the very opportunity to apply would ensure that the employers would not even bargain seriously. I might add, if I were an employer, why on earth would I, since the rules of that commission seem to be stacked totally in favour of the employer?

Public sector employees have in the past bargained in good faith with their employers under very difficult circumstances. We are confident that we will continue to bargain in good faith with our employers to reach a mutually acceptable collective agreement. The provisions of Bill 136 are simply unnecessary in order to assure that.

Free collective bargaining and first-contact arbitration: We are pleased to recognize that the government has seen the importance of free collective bargaining as the process to be used by the parties in achieving the first contracts under the Public Sector Transition Stability Act. As noted previously by others, there is in our minds no justification for removing the right to strike or lockout and referring the disputes to a new government-appointed, inexperienced, employer-biased Dispute Resolution Commission which would only duplicate processes already found in the LRA.

The Ontario Labour Relations Board, responsible for administering the Labour Relations Act, is the quasi-judicial body most suitable for dealing with labour relations matters arising out of the restructuring of school boards, hospitals and municipalities, and those matters should be left to it to deal with. We would suggest that the government consult the board in order to determine if certain time-definite modifications to the Labour Relations Act or board procedures are necessary to assist it in that task.

The Dispute Resolution Commission and the arbitration of disputes: We are glad to see that the references to this have been deleted. The creation of this commission is totally unnecessary. Currently, under various pieces of legislation applicable to Ontario public sector workers, provisions exist for resolving collective bargaining disputes using independent, tripartite arbitration boards. This system has worked successfully for decades.

The Labour Relations Transition Commission and the Ontario Labour Relations Board: The OSSTF, District 21, cannot understand why there would be the need to create a body parallel to the Ontario Labour Relations Board to

handle these issues. We would presume that the board presently enjoys the confidence of the government, and if that is so, why would it act in this fashion? Is there some special agenda that the government believes can be best put in place by using a commission of government appointees to do the job, or again is it a matter of expediency?

As I said, we support the principles that the minister enunciated and we hope they are implemented in the amendments to be tabled next week.

I would like to move now to my concluding comments.

District 21 recognizes that the government, having initiated this restructuring process, would want to ensure a transition process which would proceed as smoothly as possible. However, we in Ontario are heirs to the fruits of hundreds of years of struggle against unjust and arbitrary action. A process which violates the democratic rights of Ontario public sector employees will not achieve the government's end.

We support the view stated earlier by others who have appeared before this committee that the suggestions proposed by the Ontario Federation of Labour, suggestions the government appears to have adopted, are reasonable alternatives to the repugnant processes outlined in Bill 136 in its original form. Like others who have appeared before you earlier, we hope the government will now meet with the representatives of organized labour to discuss how these suggestions may be applied so that the restructuring of school boards, municipalities and hospitals can proceed.

We therefore recommend that the committee give its support to the recommendations to Bill 136 which are true to the principles outlined by the minister in her statement September 18, 1997. I thank you for this opportunity to appear and I am most willing to take any questions you might offer.

0950

Mr Christopherson: Thank you very much for your presentation. I appreciate it. I want to first of all talk about process. You used terms like "indecently short notice," "odious circumstances," "repugnant process." Those are very strong words. As someone in the teaching profession, obviously you understand the impact of using words like that. I gather that you didn't use them lightly.

Mr McEwen: Sir, I have testified before numerous federal and provincial committees of legislative assemblies over the past 20 years. I have also appeared before numerous boards of commissions. Never in my experience as a witness before a parliamentary committee have I been exposed to this kind of process. We had a very long debate as to whether I should appear. It seemed that the barriers to being heard were almost insurmountable.

I am a full-time teacher. I finished my marking last night at 10 o'clock. I began to write this at 10 o'clock. I got up at 6 o'clock this morning to print it out. To say the least, my brief was extremely hastily prepared. Ordinarily I would expect to have an opportunity to consult with those for whom I speak. I could not even reach my district president because my district president had been called away to Toronto.

I hope I have satisfactorily conveyed the feelings of my members. They are extremely frustrated right now, and those who know of the process I've been put to, including being told that this was on the fifth floor of this building when in fact the meeting is on the 7th floor of this building. Taking all those things together I feel that yes, the word "odious" is quite correct.

Mr Christopherson: You said you had to debate whether or not you'd appear and participate. Mr Patten on behalf of the Liberals and myself on behalf of the NDP did everything we could to try and fix as much as we could this kind of process. I've been in this place seven years, both in government and in opposition, and I've never experienced anything like it. It's outrageous, it's insulting. The government believes, I think, that they can ram this through and that there won't be enough people upset. I can only hope that given all the people who were submitted to these kinds of tactics, word gets out that the arguments from the opposition that this is an undemocratic government are true. We're experiencing this teleconferencing for the first time. This was done, in my opinion, just to cover off the fact that they are so embarrassed by their legislation, and they've been beat up so bad when they have taken other legislation out on the road, it's easier to do this on a television screen.

Interjection.

Mr Christopherson: Do you mind letting me finish, Mr Newman?

You can see how upset they are when you call them on the truth. You probably couldn't see it because you're not here, but I'm getting heckled now by the majority government members on the other side. They don't like the fact that they're being called to task. They are afraid, they're cowards and they won't go out in the communities and meet with people. They'd rather have you nice and far away on a TV screen where they can control as much as possible what you see and what you don't see. It's disgusting and it's disgraceful. I wish there were something we could do about it, but they have a majority.

I want to come back to the issue you raised about wanting fairness and neutrality, words that have been used by everybody who has come forward in terms of what they're seeking in this legislation. Clearly Bill 136 didn't do that. We just had a health care professional who suggested very clearly that they thought the purpose of Bill 136 was ultimately to extract money from workers through their collective agreement. Do you agree with that?

Mr McEwen: I have seen, on three separate occasions now over the last two years, a statement made under the authority of either the treasurer or the Minister of Education that Ontario spends \$1 billion more than it should. On each of those occasions I, as a member of the American Education Finance Association and its international director, have tracked those down and found them to be false. Nevertheless it appears that the \$1-billion demand is still there, and yes, I think that is the motive of this government; that and its desire for control.

It talked during the election about the need to get government out of the face of the people of Ontario. In fact, this is the most controlling government we have ever had. It's a government that is slowly dismantling the mechanisms of local democratic government. The municipal councillors and school board trustees will be more responsible to their respective minister than they will be to the electorate whose taxes they will be forced to raise on the demand of the government of Ontario. It is those two things, control and cost-cutting; they want to control the public sector employees in the same way that they want to cut off the ability of the local ratepayer and the parent and the consumer of local services to have a meaningful say in the operation of their government. Yes, that is the motive of this government, I am convinced.

Mr Christopherson: Thank you very much for submission. Did you get a chance to hear the minister's remarks the other day?

The Vice-Chair: Thank you, Mr Christopherson. We now move to the government side.

Mr John Hastings (Etobicoke-Rexdale): Thank you very much, sir, for joining us this morning through teleconferencing. Contrary to your own assertion and Mr Christopherson's that this is the first time we've used teleconferencing in this situation, it was used last winter through the Legislative Assembly committee on referenda. That's a reality. I don't know whether Mr Christopherson was there or not; I believe he was. That's point one, sir.

Second, I'd like to ask you how much time you had in terms of consultation on the social contract when it was imposed on you back in 1992-93 by the previous regime. Did you have extensive consultations through a standing committee or through letter-writing or other means, and what was the outcome of those particular decisions from your perspective?

Third, there is a point in your brief, which I believe is very well written — it's succinct. We get a lot of them that go 20, 30 pages and they could have made the same specific recommendations in about three or four as you have done here and that's much appreciated, sir. My point on this particular thing is about the eighth formatted point on your second page, dealing with, "Following restructuring, employees' choice of union representation be determined by a democratic secret" vote. We have had previous presenters at the standing committee, particularly CUPE Ontario and CUPE national, who suggested that union votes that were not by specific members of a given union were not really necessary on interjurisdictional reunification of unions coming together in a restructuring enterprise and that the OLRB could very well undertake the determination as to which members should belong to which unions.

My point on that is, I'd like to know whether District 21 of OSSTF disagrees, then, with CUPE national or CUPE Ontario that the OLRB determine who should be eligible for union membership in which union local, unlike your basic principle, which says that a democratic secret ballot ought to be held by the folks who are directly involved. I'd be very interested in knowing whether you

agree with that particular thrust or with the principle you have set out in your own paper which says, "Let's have a democratic secret ballot," and is a cross-contradiction to the previous deputants of CUPE Ontario and CUPE national.

Mr McEwen: First of all, I'd like to thank you for your kind words. I will answer the questions in the order that I remember them, if I may.

First to the question of the behaviour of the government when it was controlled by what is now the third party: The members of that party who know me well know that at that time I was at least as critical of their behaviour as I am of the behaviour of this government now, for much the same reasons. You either believe in parliamentary democracy where the rights of all individuals are respected or you don't. If you don't do that, if you transgress against those principles, then you can expect to hear from me. I will not discriminate in that anger and that criticism. That's point number one.

Was I adequately consulted? Were my views heard? I don't think so. Does that justify the lack of consultation now? I don't think so.

1000

Now to the second question, and if I've missed one, please remind me because I thought I only heard two: We were founded as a union in 1919 by people who returned from the First World War defending their country and defending democratic principles.

We organized ourselves because we felt we needed justice and dignity in the workplace. We have stood ever since then where our strength is the strength of commitment of our members. We are not afraid to ask people to decide whether they wish to belong to the OSSTF. We work in close collaboration with members of CUPE. I have great respect for the leadership of CUPE. I have received their strong support on many occasions. I expect to do so in the future and I expect to deliver that support in kind when the time is necessary. Nevertheless, it is the position of District 21 of the Ontario Secondary School Teachers' Federation that the best way to settle the matter is to let the members decide, because that after all is the basis behind the democratic union movement we have in this province.

Mr Pat Hoy (Essex-Kent): Good morning, Mr McEwen. We share your frustration with the process and spent a great deal of time earlier this week on just what is happening for you today and others who have tried to gather enough information to make a credible presentation before the committee.

You've done a very good job with what information you've been given. Ministerial statements are the bulk of what we know today, and other pronouncements by the minister through the press. But clearly we would all love to see the amendments. With your experience, and I've gained through some of your comments that you have a vast amount of experience, you would know that amendments are very important because individual words can mean so very much in the context of a legal definition to amendments. We share your frustration and we see this as

somewhat of a sham in the fact that we don't have the written word in a legal context as to what the minister has pronounced. I want to commend you on your dedication to the people you represent and others who would be affected by this bill, Bill 136.

The first striking point within your presentation was the name of the new board that will be in your area. It's quite obvious that geographically it appears it'll be a very huge board in terms of geography. In my area, trustees and those who might put their names forward to be trustees are sorely lacking. The area of representation is too large, in their view. They feel that two hours' driving time just to attend a meeting is onerous on them, that their role will be greatly diminished, and probably to a lesser extent that their remuneration is going to be greatly reduced. Some people have lost income to be trustees in the past, and I'm talking about a rural area where trustees were not paid huge amounts of money in the first place.

I commend you on your presentation in view of the fact that things were put together rather hastily for you and that you don't have a lot to work with except what the minister has stated, and we don't have the written document to go with that.

Mr Patten would also like to speak.

Mr Patten: Good morning, John.

Mr McEwen: Good morning, Richard.

Mr Patten: I sympathize with having to use now for your new district school board council such a lengthy title, but I appreciate your having taken the time to make a presentation here. I must say I agree with every point you have made. I'm just reviewing the minister's remarks. I don't know if you had a chance to hear her remarks to the committee yesterday.

Mr McEwen: I was teaching.

Mr Patten: Or the day before, rather.

Mr McEwen: I was doing that then too.

Mr Patten: The reason I bring this up, John, is because in your point-form under the minister's statement, it said "Reference to the Dispute Resolution Commission would be eliminated." What I'm beginning to discover now after all the representations and witnesses we've heard from is that can be read as simply the doing away with the Dispute Resolution Commission or the transition commission doesn't mean all that much, because she goes on in her speech to say that all of the authority and the criteria that were with both those commissions will be transferred to new bodies and therefore they will have to behave as those other two commissions would have behaved. Is that the way you read it as well?

Mr McEwen: Frankly, I read the bullets as you see them. I was concerned, for obvious reasons, that the clauses were not put before the committee prior to my presentation. The devil, as my father used to say, is in the details. I guess you can do whatever the devil you want with the details, and that's what you appear to be saying.

I'd also like to thank you and your colleague for your kind words. The committee ought to know that you can fit in Rhode Island, Delaware, the seven smallest European countries and still have almost enough room left over for

Luxembourg. I drove to a meeting on the other side of the new board last weekend. It took me two and a half hours. It is a most unwieldy thing.

Frankly, I think that's part of the plan. As I remarked earlier, the objective is control: We have a corporate model; we have a head office, that's Queen's Park; you have the regional offices, those are the school boards; you have the site offices, those are the schools; and the instructions will flow from the head office to the regional office to the schools and any semblance of local control will be merely window dressing.

The Vice-Chair: Thank you very much for your presentation.

Mr Maves: Chair, can I request a five-minute recess?

The Vice-Chair: Yes.

Mr Patten: Mr McEwen, if it's possible to have your document on those figures, I'd really appreciate it, the document showing the breakdown of the billion dollars.

The Vice-Chair: The committee calls for a five-minute recess.

The committee recessed from 1007 to 1016.

The Vice-Chair: I call the committee back to session. Good morning again, Ottawa. Just to explain what has taken place here, there was a call for members to be in the House, at which time the committee recessed to have its members in attendance in the Legislature.

OTTAWA-CARLETON CUPE DISTRICT COUNCIL

Mr Steve Sanderson: My name is Steve Sanderson and I'm the president of the Ottawa-Carleton CUPE District Council. I want to start by reiterating a couple of the points Mr McEwen made at the beginning of his presentation with respect to the length of time that was accorded both himself and myself, and I presume others, to prepare for this extremely important committee deliberation.

I found out about this yesterday afternoon and of course I'm a working person. I had to complete my daily activities at work prior to having an opportunity to speak to others about this, to put together my notes etc. That disappoints me considerably in light of the fact this is an extremely important change that is being proposed by the government with respect to its impact on all working people in this province.

What I want to do is give you an overview indicating that I will first talk about concerns with this process, that I will then attempt to bring forward the concerns I bear as president of the CUPE district council in Ottawa-Carleton, and then finally I will propose to you some of the changes we in CUPE and myself as president of the CUPE district council feel should be brought forward with respect to this bill.

I laboured about this last night and I guess what I came up with is an example for you to contemplate when you continue with these deliberations and attempt to take into consideration things that have been said by the people who are appearing before the committee. The example I came up with is one of the theatre of the absurd where you

would question me on my presentation prior to my actual delivery of that presentation. I believe that in effect mirrors what is presently happening with the work of this committee in that the changes to the legislation are not before us as we attempt to bring our concerns about the bill and the changes to you as a committee. There are many, many questions that are still unresolved. For example, how can we know that the proposed changes will create a fair and unfettered system of interest arbitration where government-imposed criteria are removed? Presently this system is clearly skewed. This new process that is being proposed under the bill is clearly skewed against working people. Will the final offer selection process be removed from the bill?

Final offer selection is a primitive and completely unfair manner of dealing with labour relations. Rancour, anger and frustration are the results of this process. In effect, the process of free collective bargaining is ruined as a result of it. Will the mediation-arbitration be removed? This process has as its basic principle the idea that the give and take that occurs during the process of negotiations would not occur and would not be able to proceed.

Why would anyone entertain utilizing the negotiations process as it is intended? Again, an important aspect of free collective bargaining is rendered useless. In other words, the ability of the parties to resolve their own affairs is lost. That seemed to be something this government was proposing this bill would allow to continue.

Under this bill, if interest arbitration awards are not rendered before the bill is brought down, then the parties will have to go through the whole process again. How can this be seen as a streamlining process? How will this save the employers, the unions and the public time and money? How can appointed commissioners — appointed by this government under the bill — how can that process of proposing these commissioners come forward be seen as unbiased, impartial and fair in comparison to the general high esteem that is accorded to the present list of arbitrators that are freely chosen by the parties?

This bill gives the power to cabinet to decide what restructuring is and what it means. If cabinet can unilaterally decide what this means without returning to the Legislature to propose and debate this issue, then how many other "restructuring processes" will fall under this broad umbrella? Social services, supposedly not covered presently by this bill, come to mind. I can only speak to Ottawa-Carleton, but there is a process of restructuring going on as we speak. Will this process fall under the bill as it is described presently? Would it not make sense that the process would return to the Legislature for a full debate on that issue?

What will happen with the positive movement towards fully implementing pay equity with the proposed changes under this bill? What will happen during an amalgamation under the concept of a composite collective agreement during the transition period? If all collective agreements apply, or parts of all apply, then how will this in any way help the transition process? These are some of the ques-

tions that I believe are still unresolved and need a resolution as quickly as possible.

I would like to give you a little bit of an overview of what responsibilities I have as president of the CUPE District Council and what activities we are involved in. I would like to tell you too that I have been working in social services for the last 25 years. Over the last 14 years, I have been employed by an Association For Community Living delivering services to developmentally handicapped people in this province in an effort to allow them to become full citizens in the activities that we are all hopefully able to participate in.

As president of the council, I represent approximately 5,000 workers in this area — social services, health care facilities, universities, public utilities, municipalities, school boards and others. The members of the council are active in this community through membership in social, religious, academic, benevolent and municipal groups, clubs and associations. Members of the council take pride in their community and participate in the process of enriching this community through their work and their actions.

When this community and its citizens are attacked, we feel it is our responsibility to come to its defence, both as workers and as citizens. The council, through its ongoing dialogue with and participation in this community, has no hesitation to state most unequivocally that it feels that a massive attack has been unleashed on the community, its services, its people, its institutions and its general well-being. Never in the history of this province has such a blatant disregard been displayed by an elected government to the people it has pledged to serve and to protect.

With this in mind the council, along with numerous other partners both in and out of the labour movement, have taken up the challenge of fighting for the respect and dignity of all the working people and citizens of this region. Bill 136 has galvanized our resolve and our spirit to rid the people of this province of the odious and repugnant method that this government has chosen to deal with the millions of men and women who toil day in and day out across this province.

All the working people of Ontario deserve better treatment than has been accorded them by this government through this bill. If Bill 26 was called "the bully bill," then Bill 136 would have to be called "the butcher bill" because it butchers long-standing practices of labour relations created in a sensible and practical fashion by thoughtful, serious and fair-minded legislators, boards of arbitration and educators. It butchers the sense of fairness, impartiality and independence that was the cornerstone of the arbitration system. Finally, it butchers the last vestiges of the idea of this government being free of biased and partisan behaviour against its citizenry.

As a result of the government's decision to bring forth Bill 136, the labour movement has been organizing like it has never done before. I can assure you that I have never in my life participated in more meetings with more members among more different unions than I have in the last

four months. Although we have differences, our purpose is unified and strong.

Having said this, I would like to state that I have never accepted the Conservative government's oxymoron "Common Sense Revolution," but I will say that in the last week the government has shown some good sense by indicating it is prepared to change, to modify, to alter this bill. I hasten to add that if fairness was added to this equation, then we would have the proposed changes in writing before us today so that the true essence of the concept of hearings would in effect be the undertaking of this committee.

This bill hides behind terms that are intended to mislead the public while satisfying the intentions of the friends of this government; for example, "best practices." To the public, this term means doing the best things, the right thing, the fair thing. To the government, the term means finding the lowest wages, cutting away benefits, creating part-time employment and privatizing services.

Then we can take the "public interest test." To the citizenry, this means listening to them. It means consulting them. It means respecting them. To the government, this means taking away the right to strike.

If you combine these terms and actually identify what they are intended to mean, you come up with the following example. The law will allow the government and its agents to force the working people of this province — the people who build the roads, care for the sick and the elderly, educate the children, take care of the disabled, operate the libraries, pick up our garbage, maintain our public pools and arenas — to have their wages cut, to strip away their benefits and remove their working conditions, and not allow them the chance to freely defend themselves against this. What kind of government would do this to its citizenry?

We know that this government has said it will not be swayed by special interest groups. Surely, when it passes legislation that impacts directly on over 500,000 of its citizens and then on the millions who are husbands and wives, sons and daughters, it cannot call those strong protestations those of special interest groups. It has to listen to these voices if it is in any way ethically bound to its role as governing body in a democracy.

1030

On the substance of the bill itself, I therefore request that you consider the following changes:

That the idea of the public interest test be removed from the bill;

That the LRTC and the DRC be removed from the legislation and that the OLRB be allowed to deal with the issues of restructuring;

That the government cease any form of interference in matters pertaining to the OLRB or the appointment of vice-chairs;

That we return to the consensual appointment of vice-chairs to the OLRB;

That there be no limitations on the right to strike;

That the collective agreement of a winning bargaining agent apply to all employees in the new bargaining unit;

That binding arbitration continue with the fair, independent and impartial nature it has had to date and that the government remove any parts of the bill which would allow it to intervene or interfere in this process;

That this same fair, independent and impartial process be applied to the selection of arbitrators that go on the list of arbitrators or rosters;

That any part of the law that interferes with or diminishes the capability of the fair and reasonable implementation of pay equity be removed;

That the government renew its stated commitment to hold hearings throughout the province with the changes to the legislation in place so that a free and open dialogue on the full substance of the bill can occur.

Finally, I want to read to you a brief comment on the issue of re-engineering and restructuring that we've all heard over and over again in this province. Many of us are concerned about what that means. I guess the comment I want to read is a frightening comment because it's a comment that was not made yesterday. I would like to read it to you. It goes like this:

"We trained hard, but it seemed that every time we were beginning to form up in teams, we would be reorganized. I was to learn later in life we tend to meet any new situation by reorganizing, and what a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization." That statement was made by Petronius Arbiter in 66 AD in Rome. I just wonder how far we've come, because we can still make those same statements today. Thank you very much.

Mr Tom Froese (St Catharines-Brock): Thank you very much, Mr Sanderson, for making your presentation. I'd like to first of all commend you on your involvement with the Association for Community Living. I have been involved in my riding of St Catharines-Brock, as it's called — it's all of Niagara-on-the-Lake and half of St Catharines — with that association in my area. I believe strongly, as you do, in helping people with disabilities to integrate and live in the community as much as they can.

I've met with a lot of CUPE locals in my area and we've discussed a lot of things. Obviously in some of your comments there is a ray of hope that you may down the road agree with some of the stuff we're doing, but as you said, you probably would never be able to live with the Common Sense Revolution or the party platform.

That being said, I've met with a lot of CUPE locals in my area and when we've looked at amalgamations we've discussed three areas, and Bill 136 talks about it as well. We talked about the best possible service for the best possible price for the best deal for the taxpayers.

In my discussions with them I asked the question: When you look at amalgamation, or when you look at whatever with respect to the whole area of amalgamation, can your group prove beyond a shadow of a doubt that you can provide those three areas: the best possible service for the best possible price for the best deal for the taxpayers? If you can, there should be no fear in negotiating that first contract. I would like your comments on that, please.

Mr Sanderson: Sure. Actually, that's a very good point to bring up because in the Ottawa-Carlton area we had a group called the Ottawa-Carlton Network for Persons with Developmental Disabilities that was set up to represent the 22 different agencies in our area here. Out of that, a smaller group of executive directors, presidents of boards, members of the associations and some of the individuals who receive the services, along with two representatives from labour, comprised that body.

My sadness is that over the last year and a half the labour representatives on that body have not been asked to any of the meetings. Although the area office manager for the Ministry of Community and Social Services, Pierre Lalonde, when they were coming down with the new proposed changes, Making Services Work for People, stated that unions were a part of the process, we are not a part of the process, and that is something we are offended by.

The other thing I would like to say — and I don't disagree with you that certain changes can be positive — is that we experienced an extraordinary winter here in Ottawa-Carlton, with two of the community associations in a sense working with people with developmental disabilities having been locked out of their workplaces for a good part of the winter. I don't want to go into too much detail here because it's not appropriate, it's not timely, but that didn't do anything for the services or the quality of life of those individuals. In effect, it was just basically running for the bottom. The jobs that were offered to people were in the \$8 range. The clients were put in a precarious position; the families were put in a precarious position.

That was allowed because the scab legislation came in and people were allowed to take our jobs — and no bargaining happened. Of the two agencies that are in question, one had one bargaining meeting, the other had two, and then the lockouts occurred.

I don't disagree with you that change is something that can happen and good things can come out of it, but I'm very concerned about this legislation and of course the legislation that preceded it which allowed those things to happen to developmentally handicapped individuals in our province.

1040

Mr Patten: Good morning, Mr Sanderson. I appreciate your presentation very much. I'm keeping a running tally here and I must provide some information to you which may be consoling in one sense but discouraging in another. As the 17th witness, you are the 15th presenter who has said that they are, and these are my words, handicapped by the shortage of time in being able to present before the committee, and second, the disadvantage of not having the actual amendments to the legislation, seeing that they were so significant.

What I'd like to ask you, is something you addressed, and that was something that over the course of the last two days I've been harping on to the point where I'm getting fed up with my own question, but I must come back to it because I think it's germane and key. You talked about the

criteria of the transition commission and the Dispute Resolution Commission. I wanted to read to you a section from the minister's statement. You may not have had an opportunity to receive it or hear it because she made this at the opening of the hearings of this committee. I will quote the minister and I would seek your response on it because I think it tries to address the major concern you have and that certainly our party has in opposition. She says this:

"I would like to now turn briefly to the criterion of ability to pay. The government will be extending the ability to pay and the other criteria which Bill 136 proposes that arbitrators consider for the hospital, police and fire sectors to new, post-amalgamation, first-contract arbitration proceedings" etc.

It's clear to me that what is happening is that while there is a statement by the minister that they will discard the two commissions, the terms of reference, the functions, the responsibilities and the criteria, which I think are the most important, will be transferred to the labour relations board, and in the case of those who don't have the right to strike, they will be broken up into those arbitration commissions with the police and firefighters, that sort of thing. Can I get your reaction to that, please, Steve?

Mr Sanderson: I'm saddened to hear that, to be honest with you. First I want to make a comment, very briefly, that what you indicated about the process of my being here in Ottawa and your being at Queen's Park in the committee hall in Toronto is terrible for another reason: Not only do people want to participate by coming before the committee, but it's important for people in the community to feel that the community is important.

Back to your question: The significance of that is that the respect of dignity that arbitrators have felt I think will be washed away. The process is important. We have always looked at it from the perspective of the impartiality and a non-biased approach to the situation. It's a quasi-judicial relationship that is there. If the impartiality is gone, then how can we respect those bodies? How will we feel there is any fairness about decisions being made?

I think you've captured it quite clearly in that if a body is no longer what it used to be, then what is it? Does it then become a puppet to the government? That I think is the most important aspect of the change we're attempting to ensure would be there, that the freedom for the individual to make those decisions based on what is best — I say "best" here; not a best practice — is obviously going to be lost if the ability of the government is going to be given over to the board. That will be a sad day for all people and all working people in the province.

The Vice-Chair: We now move to the third party.

Mr Christopherson: Hi, Steve. How are you?

Mr Sanderson: Very good.

Mr Christopherson: Great. Good to see you, anyway, on TV.

Mr Sanderson: On TV, yes. The video age.

Mr Christopherson: Yes. I feel like I'm talking to the Mir spacecraft here, and Max Headroom comes to mind too. I love your expression "theatre of the absurd." I've

written that down. I think that's worth repeating in certain places.

I'm like Richard. You're expressing my feelings too, one of such supreme frustration that no matter what, you can't bring any sense to this process and to what's going on and still it marches on. It's a juggernaut that just can't be stopped and I guess it won't be until the next election when we find out whether there are enough people who feel the same way. Other than that, they're going to jack-boot their way all the way through this whole process until they reach the end of whatever it is that they're going to do to us all.

I noted that you said the government showed some good sense when they finally backed down. Had there been some discussion with you ahead of time, which I know didn't take place, and had the government tabled what they were planning to do before they did it and then heard the alternatives of labour, all this could have been avoided. I've asked others this too: The first question would be, would you agree with that, that had they done a lot of this work before they tabled 136, the whole province could have avoided all this crisis?

Mr Sanderson: Absolutely. I agree with you completely on that. I'm not sure if you want me to go into any greater detail, but beyond the problems, I guess my family brought me up to respect those people who are elected to government and to see them as the individuals who really were responsible for our care, for our nurturing, to develop our communities. I can assure you that what has happened, as a result of the opposite of what you're saying, is that you have people living in chaos, in crisis, who are frustrated and angry and embittered. That, to me, is not what a government is there to do.

I can be mad at a particular aspect of this or that of what the government does, but the result of the juggernaut, as you describe it, with this government is that we're no longer important, we're no longer necessary; we're an appendage. That's the worst thing this government has done. I'm hoping in some ways that it will turn people's minds to the fact that changes need to be made and, as you say, maybe we have to wait longer, but we will make those changes and they will be for the people of Ontario.

Mr Christopherson: I noticed also that you said if only fairness would be added to what they've currently announced. I don't want to worry you too much, but we are dealing with a government that brought in a brand-new Ontario Labour Relations Act and a new Workers' Compensation Act, both previous acts which had the word "fair" in their purpose clause, and this government has removed it. We've heard from every single representative so far who has been concerned about process that all they want is fairness, natural justice, neutrality and unfettered decision-making. There are about half a dozen key buzz phrases that people are using.

The reality is, and I would ask you for your comments on this, that all the representatives of working people coming before us so far have not asked for anything special. All they've asked for is, to use a business term, a level playing field of fairness and impartiality and nothing

more. They don't want it loaded in their favour and they're not trying to take away the rights that employers have in these circumstances. They just want a guarantee that they've got the rights that are necessary to have fairness. Is that what you're offering on behalf of your people in Ottawa?

Mr Sanderson: Yes, most undeniably. There's not a lot of talk here — I don't think I've heard anything — about people saying, "We want more of this, we want bigger salaries, we want better benefits." What we want is the integrity of the system to be left in place so that in relations — and that's what our life is all about: human relations — and in this particular way the relationships people have in their working lives, be done in a respectful and dignified fashion and that rules and regulations apply to the process that allow that fairness to be in place.

This definitely is not the case with this bill. It's stripping away any opportunity for people to be treated with that respect and dignity. If you take that away, you become master-servant. That's something we got rid of 60 years ago and I see that returning.

If that's what this government thinks of the people who live in this province, then that's not the government I want to live with any more and that's not the kind of province I want to live in. I think many people are turning away from this and inch by inch things will change. Of course, you're absolutely right that respect and dignity for working people throughout the province have to be assured.

I can tell you now that even beyond the statements I've made saying that we hope there will be changes, we have our fingers crossed in some ways but we're not giving up the battle. Until we see this stuff in black and white, I can assure you — and this is not a threat; this is just a reality — it's a battle that we're in right now. As we speak tonight in the Ottawa-Carleton area, we're opening our strike headquarters, not because we want to go on strike but because we are not sure what this government is going to do. We're not sure from one day to the other what this roller-coaster ride is about. If they are prepared to come forward and do things in a reasonable, acceptable, fair fashion, then we do that ourselves too.

1050

I'm used to negotiating. I've been negotiating for years. You battle it out and when it's over you shake hands and you go back to work. Right now we haven't shaken hands because we haven't come to any conclusion, and that conclusion is something the government has to bring forward right now. We have to see where they're at. We have to see it on paper. It's got to be quite clear. Otherwise, the thing is a mish-mash. We're not prepared to sit back and say everything is hunky-dory.

The Vice-Chair: Thank you very much for your presentation. That concludes your time.

Just for the committee, I'll explain what's going to take place now. Our two presenters listed for 10:30 and 11 o'clock — actually, there were three presenters who had asked for half-hour slots. They amalgamated into two, and what we're going to do now, unless there is strong objection from the committee, is have one presentation from the

two slots and then open the remaining time of all three presenters for questions and answers. The reason this was done was that it opened up another time slot in the day, to go from three to two. Do you understand?

Mr Christopherson: I just want to be clear: There are two presentations and you're going to give them the time of three?

The Vice-Chair: No. What happened was, initially we had three groups who had asked to make presentations. They themselves amalgamated down to two, and that allowed us another time slot, okay? So now these two are wanting to present as one presentation so that we can use the full time of all three presenters we expect to hear from, use the full hour for their presentation, and whatever time left in that hour after their presentation is done is divided equally between the caucuses.

Mr Christopherson: So we're going to do an hour on the next two as one. Is that available to others too?

The Vice-Chair: This was a recommendation, and this is the first time I've heard that this has actually been requested. If the committee would rather have two separate ones, that's a decision the committee would take.

Mr Christopherson: No, I don't have any particular problems, certainly, with what they would like to do. It's just that there is an argument that that's not a bad way to go, and if that's the case, I wouldn't mind advising some other folks that they could do the same thing, because an hour's discussion with a focus of one presentation and us having some time divvied up gives you some time to get into some real detail. I can assure you there are other groups that would want to do that. I'm not trying to suggest that therefore we should stop this, but it may not be a bad idea, and if that's the case, then I would like to say to you that we'll take a look at other presentations and maybe do the same sort of thing.

Mr Patten: Do we have documents from any of these groups?

The Vice-Chair: It was just passed out, yes.

Mr Patten: We have one?

The Vice-Chair: Yes. Any other comments on the process as presented?

Mr Froese: I'm still not clear on what we're doing. The two presenters at 10:30 and 11 o'clock —

The Vice-Chair: They are all going to present together as one.

Mr Froese: Those two are going to present as one.

The Vice-Chair: Yes.

Mr Froese: Okay, and then there's going to be half an hour divided between caucuses?

The Vice-Chair: Whatever time after the presentation is done will be divided between three caucuses, so essentially these groups will have an hour of time.

Mr Maves: That's unusual when we've got a motion saying that groups get half an hour. I understand the desire, but we're going to start getting groups combining and saying, "Now we're going to present for two hours." Where would that end?

The Vice-Chair: That's why I asked if there was discussion on how you wanted it to be handled.

Mr Froese: Mr Chair, I don't understand why they can't go in the same format. I don't understand what this third group is. We've got a presentation by the county of Frontenac and the new city of Kingston. That's what is up next, correct?

The Vice-Chair: Yes.

Mr Froese: So why can't they present in half-hour slots like everybody else?

The Vice-Chair: I believe they have asked to make a single presentation or use their time as one large group.

Mr Patten: The problem is that we haven't afforded that option to others. That's the only concern. We had all the police forces here and they all come as one. I'm sure if they knew they had that option, they would have wanted to divide up their presentation.

Mr Maves: And they would have presented for two hours. I think that raises real problems.

Mr Froese: Are you requesting us to —

The Vice-Chair: That's why I said unless there were —

Mr Maves: In my opinion, if they're a group to make a presentation, they should get the 30 minutes a group gets. If there are different people in each group and each wants to make a presentation for half an hour, that's a different situation. But if they're going to make the same presentation and they really want a group, I don't think they should be allowed to arbitrarily put their time together. As I said and as Mr Christopherson just said, five different police organizations were here yesterday and they could have presented for two and a half hours, and that's the problem.

COUNTY OF FRONTENAC

NEW CITY OF KINGSTON

The Vice-Chair: We'll hear from the people in Ottawa, if they would like to explain.

Mr Terrence Whyte: I'm Terrence Whyte. I'm the legal counsel for both Frontenac management transition board and the new city of Kingston's transition board. We thought it would make it easier to present once in the one-hour time frame for the committee. We are even quite prepared to relinquish the other half-hour and restrict this presentation to one presentation from the two groups with the questions allotted as you have done for other groups. We do not want special treatment but we will be making the same points, so if you would like, take all of our comments and double them, if that resolves the issue.

The Vice-Chair: I believe that resolves the concerns of the committee. We'll go ahead with a half-hour presentation.

Ms Donna Brown: Good morning, Mr Ouellette and members of the committee. I am Donna Brown, a member of the transition board for the Frontenac management board, and the reeve of Bedford township. A representative on behalf of the transition board for the city of Kingston could not be here today, unfortunately. I assure you that I am speaking on behalf of the whole Kingston area. I have with me today Lin Good, who is a member of

the citizens' committee that was formed to advise the transition boards referred to as the human resources transition team. We are supported by Terrence Whyte, the partner of Templeman, Menninga, Kort, Sullivan and Fairbrother law offices. We are here today to make submissions with respect to the proposed amendments to Bill 136.

The first issue we would like to address is the timing of this legislation. It is critical to the success of the restructuring process that this legislation be enacted as soon as possible. To facilitate the restructuring process, it would be ideal that once the legislation has passed, it be made retroactive to the date the bill was originally introduced. In the alternative, it is our view that it is absolutely essential that the legislation come into effect the day it receives third and final reading, provided the third and final reading is prior to the Thanksgiving Day weekend.

The minister, in her speech announcing the amendments, made reference to her desire to "seek views as to whether a temporary public interest test should be applied during first-contract negotiations." It is our understanding that the minister thought this would take place after a strike or lockout had caused sufficient disruption that it was in the public interest to act.

We would submit that it would be in the public interest to allow either party to take a first contract under the restructuring to compulsory arbitration if the parties were unable to agree upon a first contract within 12 months of the changeover date; that is, December 31, 1998.

The Kingston/Frontenac transition order has a provision that provides that "service equals seniority" for all bargaining unit members and potential bargaining unit members. Bill 136 in its original form provided that these provisions in the transition order would not be changed. If it is the government's intention to ensure that all existing employees who are impacted by restructuring receive fair, consistent treatment as the process unfolds, it is absolutely essential that the amended legislation, complete with provisions for dovetailing, be maintained.

Further, it is our position that in order to deal with such factors as job postings, promotions, transfers, and layoff and recall, if the "service equals seniority" and "dovetailing" are not legislated, there is a significant potential for non-union employees to be treated as second-class citizens as they stand idly by while grievances over job postings, promotions, layoff and recall are grieved and arbitrated without their ability to be part of the process.

1100

In her statement, the minister made reference to her desire to respect the democratic rights of all employees. It is our submission that in order to provide employees the right to choose whether or not they wish to be part of the bargaining unit and, if they choose to be part of the bargaining unit, which bargaining unit they wish to be part of, the 40% threshold contained in section 25 of Bill 136 is of utmost importance.

Further, we submit that you may wish to consider taking a vote in every circumstance. No matter what circumstance under which a vote is to be taken, it should be

conducted in the normal democratic method of a secret ballot.

In addition to the timing of the implementation of legislation, we submit that the time lines as set out within the proposed legislation must be clearly detailed in the amended legislation. The Dispute Resolution Commission would have provided an expeditious process whereby collective agreements would have been finalized in a timely fashion.

Unfortunately, it appears that interest arbitration will revert to the procedures set out in the Hospital Labour Disputes Arbitration Act, Police Services Act and Fire Departments Act. In her statement, the minister suggested that amendments to Bill 136 would make provisions for expedited arbitration and for the use of other forms of arbitration. The proposed amendments to the bill must address the inexcusable delay in resolving interest disputes. Very often employers receive awards for collective agreements whose terms have expired for more than one year. Since freeze provisions prevent the alteration of any terms and conditions of employment until such collective agreements are finalized, employers simply cannot make any change to implement reorganization in a timely fashion.

As well, the minister supported the Ontario Federation of Labour's statement that there is no need for a new Labour Relations Transition Commission and that the Ontario Labour Relations Board could assume the responsibilities and functions proposed for the LRTC. While we do not disagree with that statement, the OLRB would only be able to cope with the increased workload if it is given sufficient competent staff to expeditiously process applications and proceedings arising out of restructuring.

Presently, any proceeding before the Ontario Labour Relations Board is time-consuming and lengthy. Very often it takes months to get a decision from the board. Delay in establishing bargaining units and bargaining agents for restructured organizations is intolerable and has the potential of significantly affecting in a negative fashion the employer relations in the workplace. Further, as we discussed above, the Ontario Labour Relations Board must be given the statutory authority and direction to deal with the merging of seniority and service of both unionized and non-unionized employees.

In summary, time lines are critical. It is also critical that competent staff be available at arbitration and the Ontario Labour Relations Board to make these decisions related to the restructuring process. The ministry may wish to establish decision-making panels similar to those that decide construction industry cases to handle, among other issues, those matters that will arise from the restructuring process.

In the interests of fairness to all concerned, bargaining unit and non-bargaining-unit employees alike, it is our submission that it is critical that there be an amendment which would clarify that once a winning bargaining agent has been determined for a particular bargaining unit, that bargaining agent's collective agreement be the agreement of record for the purposes of (a) determining a standard

method for calculating seniority, including the calculation of service for non-union employees who become unionized employees; (b) the grievance and arbitration procedures the parties will follow; (c) job postings, promotions and transfers; and (d) layoff and recall.

As we have previously stated, failure to enact such an amendment could result in non-unionized employees being disadvantaged as they potentially watch grievances over job postings being grieved and arbitrated without their ability to participate in the process. Conversely, by identifying an agreement of record, it is presumed that the non-unionized employees would have these issues resolved as though they were members of the winning bargaining agent's union. This recommendation is totally consistent with the government's stated priority to protect non-unionized employees, a goal that is shared by our municipalities.

We in the Kingston area have led the way for restructuring. We did what the government asked us to do, and we did so in good faith, based on what the government promised in return. We need this bill in its original form to complete our restructuring and protect all of our employees. These people have contributed for years and years to their communities and they deserve fair treatment in return. We made restructuring decisions based on "service equals seniority." Our small communities have employees who have worked for 10 to 20 years in their jobs. They are our friends and our neighbours. Our decisions as community leaders were based on this format. It is imperative for our employees. We must give them fair and equitable treatment. They all deserve it.

My community of less than 1,000 permanent population has over 3,000 seasonal residents, and we are restructuring with three other municipalities to a size of over 15,000 population. Our employees must now compete for their own jobs, and they need to be on equal grounds with unionized workers.

The buck stops here at the local level. We are the last rung on the ladder. We are responsible for the future of our employees and our communities. We have no one else to pass down to. We take the brunt of the hits. We are it. The frustration of the day-to-day changes is overwhelming for all of us at the local level. We are at your mercy.

We thank you for this opportunity to make our submissions with respect to the amendments proposed to Bill 136. As stated above, it is critical that this restructuring process be supported by legislation that allows for the flexibility necessary in order for this process to be successful.

My colleague Lin Good would now like to make further comments on the points I have made, and then we would be open to questions from the committee.

Ms Lin Good: Mr Ouellette and members of the committee, my name is Lin Good. I am a former member of the Kingston city council. I am currently on the human resource transition advisory team. I wish to refer also to a restructuring in which I participated for the past five years which was part of the work of the Minister of Community and Social Services.

About five years ago, the agencies for children's mental health services in the six counties — Hastings, Prince Edward, Frontenac, Lennox and Addington, Leeds-Grenville and Lanark — decided to get together to discuss whether they could indeed deliver better service to more people for roughly the same dollars. I want to emphasize that that restructuring initiative, though blessed and facilitated by the Ministry of Community and Social Services through their area office, did begin as a voluntary exercise by the agencies involved.

Most of the services were concentrated in Kingston, and technically, legally, the Kingston services dealt with the six counties. There were one or two outlying, very small agencies and one or two satellite operations from Kingston. But there was increasing dissatisfaction among the clients with the fact that every time they needed anything special, they had to drive in and out of Kingston. So the restructuring began.

I wish to emphasize that like Elizabeth Witmer and like the representative from CUPE, I do indeed believe in a fair process. I would not willingly serve on any board which tried to act otherwise with its employees. I wish to emphasize certain points which I've now learned by experience with children's mental health need to be addressed nevertheless.

I should explain that I suffer from a throat problem, so you will bear with me, I hope.

1110

First I want to state that everything we did in children's mental health restructuring, we negotiated with the unions. I suppose the union perspective, for which I have some sympathy, would be that we discussed too little with them at the planning stage, but as soon as we realized that, those of us who were on the boards and therefore acting as the governance or employers, we brought in the union for discussions, to the point where eventually we negotiated a transition protocol which both parties duly signed — all the unions and ourselves and all the agencies — and which we tried to follow. It was the various stumbling blocks which came after that transition protocol agreement which brought me to decide to emphasize the following points for you.

I cannot emphasize too much that as well as equating service with seniority, it is absolutely vital to give dovetailing. We did not get that; we got entailing, as the word goes, which meant that all the union people got a chance at their jobs before the non-union employees from the smaller agencies. This seems to us to be unfair. We had employees with very long service waiting to find out whether they would have any job at all after everyone else had taken their choice.

I'm pleased to tell you that despite all that, because we offered a very successful voluntary exit package which was accepted by 17 people, we in the end had to lay off no one. Nevertheless, we have some not-too-satisfied formerly non-union employees who had to take whatever they could get. That's one point.

I agree wholeheartedly with the concept which you've heard about that the winning bargaining agent's collective

agreement, once established, should be the collective agreement of record. We did that. It worked, we thought, quite well until we came to the point of needing to change it to meet the new circumstances. It must be remembered that such a collective agreement was made for a very different organization than that which results from restructuring. Ours was made for one agency — the largest one, it is true, but a very different agency from the new restructured organization which is now represented by four separate agencies based in the four areas of the six counties, not concentrated in the city of Kingston.

It becomes essential at this point for us to get to first-contract negotiations. I just wish to record again that there have to be time limits in getting there, as Donna has already pointed out. Although we have a collective agreement of record, we have had so many grievances that although we began to try to put in place a new organization and therefore begin contract negotiations 15 months ago, we are only going to get to the table for the first contract next Monday. This is not because of ill will. It is because of the frustration, perhaps on both sides, of dealing with a collective agreement of record which, although now recognized, does not really represent the new situation. We have dealt with enough grievances and dispute resolution motions for me to know that time indeed is of the essence and that the current system is really far too long-drawn-out and, I may say, too costly for people to carry.

I want to conclude by pointing out that we need the time lines. To give you an illustration of what happens when you don't, although we have a collective agreement of record, because we carried through the various wage scales of the previous agencies, we now have in Kingston, Frontenac, Lennox and Addington sector child and youth workers working side by side with a \$7,000 annual pay differential. Until we get to the table we can do nothing about rationalizing the pay gaps, the needs and so on.

In conclusion, I want to point out that there are many parties to this. There is labour, and I agree we must listen, and should. There are also, though, the clients; there are the communities to be served. All of them have very definite interests in this matter. The very long-drawn-out process we've gone through I think only adds to the frustration, the uncertainty which inevitably accompanies any restructuring, and the timeliness and the firm timelines are necessary for everybody, including the workers, to get to the new beginning.

Mr Patten: Good morning. Welcome by way of teleconferencing. It would be nice to be meeting with you in person, though.

Mr Whyte: We should make a comment that it's just as easy for people in Kingston to go to Toronto as it is to come to Ottawa, in fact easier; however, we are here now.

Mr Patten: I know that. It would have been nicer for us to all come and visit you in Kingston is what I'm suggesting.

Mr Whyte: That's a nice thing to do.

Ms Good: Perfect.

Mr Patten: If I may ask a quick question to Ms Good, you suggested in your reorganizing of the Children's Mental Health —

Ms Good: Children's Mental Health Agency.

Mr Patten: I gather that involved some other agencies as well or was it just the Children's Mental Health Agency?

Ms Good: They were all the agencies funded by the children's mental health dollars in Comsoc.

Mr Patten: I'm limited in time so I'll have to be quick. I gather in your comments you started off by saying that many people were somewhat tired of always having to go to Kingston.

Ms Good: Yes.

Mr Patten: I take by that, that in the reorganizing there was some sense of spreading out the services closer to the people. Is that correct?

Ms Good: Yes, that was the principle of the reorganization. So we now have services in Hastings, Prince Edward, Lennox, Leeds-Grenville and ourselves, and even within the agencies there we have satellites and communities where, according to our statistics, the greatest need is.

Mr Patten: I like the spirit of that initiative, but it seems to me it's a different value system from the amalgamations I observe in terms of bigger school boards, bigger municipalities, bigger hospitals, which mean there will be greater distances for people to travel, certainly for staff who work for those organizations, and for clients; I don't like the term clients, but for people who want to utilize services or to access what services are available. Would you agree with that?

Ms Good: I don't wish to comment on your premise, but I do want to say that we developed our own plan of what we thought was going to provide the best service. We presented it to the area office of the ministry, and eventually it came back virtually unchanged, and they agreed with it.

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Mr Patten: To Ms Donna Brown, you had made a comment in your presentation — it was on page 3 of a document I have here — "Unfortunately, it appears that interest arbitration will revert to", it's the third paragraph, "the procedures set out in the Hospital Labour Disputes Arbitration Act, Police Services Act, and the Fire Department Act." I would like to refer you to the minister's remarks.

I'm not sure if you have them because it was just made — was it two days ago? Two days ago the minister made the remark and I'll quote from her, "The government's proposed changes to Bill 136 will change the Fire Protection And Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act to create expedited time lines to ensure the quick and timely resolution of disputes in the police, fire and hospital sectors."

I don't have time to go into the other areas as well, but there will be a fair amount transferred to these particular bodies that will — I wouldn't want to use the word impose

but I guess that's the only word I can use — impose criteria and methods and mechanisms they do not have at the moment, or are not applying at the moment. Is that your understanding or is this new information to you?

Mr Whyte: That's new information to us. In any event we would reiterate the time lines and the expeditious process in this whole venue is desired and indeed required. We would also say that the factors of employers' ability to pay, possible reduction of services and so on that are contained in those pieces of legislation should also be given direction to the Ontario Labour Relations Board in its deliberations around first-contract arbitration.

Mr Christopherson: Thank you very much for your presentation. Question for Ms Brown and Ms Good: Would you have preferred, if you had your druthers, that the minister not announce changes to Bill 136 but rather leave it in its original form?

Mr Whyte: I'm going to respond on behalf of my clients in that regard. What we would have preferred doesn't matter at this point, with all due respect. What we're here to respond to is what we would like to see in the amended document. There are some aspects to the original document that we've already talked about that we would like to see retained, specifically the dovetailing, service equals seniority and specific time lines we would appreciate remaining in the amendment. That's contained in the document, Mr Christopherson.

Mr Christopherson: Thank you, Mr White. Let me then ask, would you have preferred to have seen, being a lawyer, the detailed amendments prior to making a submission?

Mr Whyte: With all due respect, the government is moving in a fashion that requires the moves it's making at this point. It is imperative for us to have these amendments, whatever they are, in place on or before Thanksgiving Day. They are necessary for the success of the restructuring process and for the fair and equitable treatment of all employees, bargaining unit or otherwise.

Mr Christopherson: Is there anything the OFL has suggested that you would think is not fair or objective or impartial, that you would have trouble with?

Mr Whyte: Not having read the comments of the Ontario Federation of Labour in detail, I am not going to comment on that.

Mr Ernie Hardeman (Oxford): Good morning, ladies and gentlemen. First of all, I want to commend, particularly the politicians, but all the people of the Kingston-Frontenac area for their initiative and the fine example they've set in looking at downsizing and reorganizing local government to provide a better and higher quality service for the dollars being spent.

We've had a lot of presentations at this committee. Quite a number of them have come forward and said we do not need a Bill 136 or anything of that nature to deal with restructuring. The present system in place will look after all the things that are required. I gather from your presentation that would not hold true in the Kingston-Frontenac area, that as you're going through your transition, there are some holes in the system that are creating

some problems as you deal particularly with putting together the labour forces that presently work for the different municipalities?

One in particular seems to be the issue of dealing fairly and equitably with the non-unionized people in the workforce as opposed to what in your case may be the majority of people who are presently organized with some legal representation. Recognizing that your restructuring regulation actually deals with that dovetailing — your comments on why that is not working sufficiently and the need for further clarification in Bill 136.

Mr Whyte: On the one hand, we think it is working through the transition order, but the transition order in its document only talks about service equalling seniority and does not necessarily reflect on the dovetailing aspect of it. I'd pass it to Ms Good to comment further.

Ms Good: So far we've been assuming that we are all right with that because the way we all have been reading the minister's order, we're taking it that service equals seniority and we may dovetail. But we don't sit down with our unionized employees to discuss the transition protocol until tomorrow. Until tomorrow I shan't know whether it is in fact going to be an accepted point or one we then have to face as being not accepted. We've so far only dealt with our non-unionized senior staff in the hiring process.

Mr Whyte: From the perspective of the use of Bill 136 or its amendments, it is an important document to the success of the restructuring and we see it as a time-limited document that would assist in that process.

Ms Good: In children's mental health we began not with the minister's order unfortunately, but with our own principle, that we would do service equals seniority and dovetailing, but we failed to carry it through. We lost on that point and we ended up endtailing.

The Vice-Chair: Thank you very much for your presentation. That concludes our time. Thank you very much, Ottawa, for joining us this morning.

CITIZENS FOR LOCAL DEMOCRACY

The Vice-Chair: We will now ask for Citizens for Local Democracy to come forward.

Mr John Sewell: My name is John Sewell and I'm —

Mr Hastings: Point of order, Mr Chairman: My point of order pertains to the offensive and odious behaviour made by this deputant, Mr Sewell, at a meeting last Thursday of the standing committee on general government. I believe those actions and his comments near the end of the meeting were not only odious and offensive, they were hurtful to a certain group in our society. I would like to see Mr Sewell at least make an apology to members, some of whom are on this committee, some of whom were on the other committee, before he proceeds today.

The Vice-Chair: Mr Hastings, being that this is the resources committee, it is not my position or ability to determine the actions that took place in another committee. I believe the appropriate time to have raised any

concerns you are bringing forward would have been at the committee where the infraction or so-called infraction took place. I'm afraid I have to rule that point of order as being out of order.

Mr Hastings: We didn't have that opportunity at that committee.

The Vice-Chair: Thank you. Perhaps if you could continue, Mr Sewell, please.

Mr Sewell: My name is John Sewell and I'm one of the people who's on the steering committee of the Citizens for Local Democracy. We're an organization that has been meeting in Toronto once a week since last December. We usually meet on Monday evenings. Currently we're meeting in Metropolitan United Church. We attract considerable numbers of people to the meetings to talk about not only issues around megacity, but other parts of the world, things that are happening at the provincial level.

We've given considerable thought to the question of Bill 136 and I wanted to give you two pieces of information that may be helpful to the committee before I make my remarks.

First, I've brought copies of our newsletter that was published in June 1977. It is a commentary, on one side, "Squashing Democracy in the Workplace," of general approaches to what's happened in the workplace in the last 100 years with a very interesting quote from the labour code of Canada about what labour relations should be, and on the other side, a brief summary of our understanding of Bill 136. This has been distributed fairly widely, certainly throughout C4LD but among other people as well. That will give you a brief overview of how it is that C4LD is looking at Bill 136.

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The second thing I want to point out is another newsletter. This is a very recent one that's dated September. It's a list of what we call our civic priorities. C4LD has been involved in a long discussion, and a really long discussion, over the summer about what should be the basic points we believe in going into this municipal election in Metro Toronto.

We've worked out something relatively brief, which is a set of three principles and then a set of half a dozen actions. The actions are divided into subpoints and if you look under "Strong Public Services," you'll see point 6 in the right-hand column here, "Staffing levels and salaries of municipal workers must be protected and the provincially controlled arbitration process contained in Bill 136 must be avoided."

These principles have emerged after long discussion, and when they were finally voted on on September 15 at our meeting, there were probably 450 or 500 people present. The point I want to make is that the amount of support behind these documents is, in the scheme of citizen politics, relatively significant. There's been a lot of discussion. People are aware of the issue and people have taken some strong views about 136 as not being a helpful bill, as being something that is hurtful. It's in that context

I wanted to comment very briefly in the time available to me.

I want to begin with a really brief historical perspective on public-political relationships. We began, as everybody knows, with relationships between kings and subjects. People found that wasn't satisfactory, that kings had too much power and subjects had much too little power and we moved on to a different kind of relationship during the 19th century, where we moved not only from king to subjects but then from master to servants, and a lot of people defined their position, whether they were a master or whether they were a servant.

What's interesting about the last 120 years is the move towards more equitable relationships between people. We really have moved into an era of democratic decision-making where everyone has a vote, where it's thought that people should have some sort of equality, that expressing our relationships as master and servant or king and subject is no longer good enough.

I think one can see that in terms of the recent death of Princess Diana, the personal relationship a lot of people had with her, that those old relationships really have broken down in our society and we're trying to reach a more democratic relationship where people are valued relatively equally. It's not perfect, there's no question about that, our attempts to try and reach a democratic understanding. We're aware some people have influence far beyond their numbers, particularly those who have significant sums of money. But nevertheless I think the drift in society is to try and reach some democratic framework where no one is willing to say one person's life is not worth as much as another person's life.

Obviously those kinds of ideas about democracy have to be taken to the workplace because most of us spend so many hours of our lives at the workplace. Taking democracy to the workplace is difficult since there are unequal relationships to begin with. Someone has started out saying, "This is my company and therefore I've got some choices to make," or they say, "I was appointed as the manager and therefore I have some choices to make."

But I think everybody recognizes that if we don't have some forms of democracy in the workplace, we're going to be in real trouble. There have been a lot of attempts in the last 100 years to figure out exactly how to do that. How do you bring democracy, treating people equally, with respect, to the workplace? There have been two big moves as we're aware. One is the idea that there's freedom of assembly, that workers can join together to protect their interests, to express their interests, to negotiate their interests. That's been widely recognized as a democratic kind of overlay in the workplace. The second major principle is that if in fact you can't reach some kind of negotiation as a worker, you have a right to withdraw your services. They're two really big principles that have been put in place because of the democratic movement of the world in the last 100 years.

I think people have recognized that you can never underestimate the importance of negotiation. It's negotiation that gives the opportunity for both sides to air their

problems and their differences and in fact try and reach an agreement. It's the agreement that provides the basis for acquiescence so that people feel they've bought into something that's their own.

If you don't permit free negotiation, and there are some cases where we've decided we won't permit free negotiation because the jobs are too important and we don't want people to withdraw their services, then what we've done is set up an arbitration process and the compromise we made was that the parties themselves would choose the arbitrators. So even in that situation where we're dealing with very important workers, we say you must choose your arbitrator because that's the closest we can get to democratic principles.

The point I want to make is that none of this is perfect, but it's an attempt to represent the values of democracy that I think most people in Ontario hold very dear. Now, of course, Bill 136 throws these principles right out the window. It says that we don't have any time for those kinds of notions that have been developed and in fact it's as though the government has not paid attention to the last 100 years and this very important struggle that has affected all of us, which in fact people have gone to war about in this century.

Bill 136 is a really weird duck then, because it stands against the drift of where we've been going.

The problem of course that I have today is trying to sort out how I should characterize this particular hearing. In view of what Bill 136 does, in view of the drift that we've been seeing in our society towards democracy, what are we supposed to think of this hearing?

We know, for instance, that the minister says she doesn't agree with Bill 136 any more. She wants to make some changes to it. Unfortunately, we don't know what those changes are. She hasn't given us the words. In fact, my understanding is the words aren't going to be made available until after the hearings are over. Then I begin thinking, so what is the purpose of the committee hearing?

Usually my understanding is that committee hearings are in order to permit the public to make their views known on legislation. I'm aware of the trend of this government to severely limit hearings, so most of the people who've asked to be heard simply aren't permitted to be heard. I'm aware of that and I've seen that too often on too many bills. I think that's really unfortunate and it's not something that you should be part of. But of course that's not the purpose of this hearing, because we don't know what the legislation is.

As far as I can see, there are only two other purposes then of this hearing. One purpose would be to make it look as though the public has been listened to, sort of as a charade. My question is, is that what the purpose is? You want to make it look as though the public has been heard, when you yourselves haven't even seen the legislation? If that's not the purpose, the only other purpose I can see is to try and somehow mislead the public, try and use up our time for something where you don't even have the legislation. I'd really be interested in knowing what you

actually see as the purpose? Why is it that as government members you're here?

Mr Maves: To hear you.

Mr Sewell: About what? I can't talk about the legislation. Even you don't know what it's going to say. I would like to talk when I know what the legislation's going to say. That's when I and other people might really be helpful. We could say, "You got this word wrong," or "That's an interesting idea, but maybe you should take it that way." And if the question is you want to hear me — you don't want to hear me. You've got other important things to do. So I begin to think maybe it is to make it look as though the public has been heard, when you don't have the legislation. I think that's a pretty sad situation.

The question occurred to me as I was writing my brief, do you actually tell your spouses and your children the anguish you must feel about being put into this awful situation where you're being used as a pawn, when you don't know what's happening? You have to hear people about stuff that they can't even talk about? Do you share that anguish with anyone?

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I suspect it must be considerable. I mean, let's face it. You have my sympathy. I think your leaders are making you look like fools, like buffoons. They've sat you up as cardboard figures where you can't even talk about the legislation because even you don't know what it is. I can't talk about it. I can only talk about something the minister says she doesn't like any more. It seems to me that's unfortunate.

I was thinking, what's the analogy? It seems to me you're just like the lackeys that we heard about in the days of the Soviet Union, when everything was form and no substance. They had a terrific constitution, which we all knew meant nothing. We've got a committee hearing which looks terrific, but it means nothing because you haven't even got the legislation. I can't even talk to the legislation. I thought, imagine that, you guys are the reincarnation of that corrupt and dishonest system that was overthrown in the Soviet Union. That's what they did all the time, and you're doing it now. I think that's really sad.

I think you should object to that. I think you should say you aren't going to take that role any more, that you aren't going to be treated by your leaders like that. I think you should say you believe in democracy. And that people who want to speak to this shouldn't be treated in that manner. I believe there would be very considerable support for you if you said it.

I think everybody agrees there are changes that should be made in Ontario — nobody doubts that — but these changes are not set out in Bill 136. Even the minister agrees on that now. What we need are well-thought-out changes. We don't need the whiffle-waffling that we've seen. I just thought of John Snobelen, who comes out with some legislation one day and then says, "Gee, I realize I didn't consult the right people and now I'm going to change it." That makes you look awful. I feel sorry for you

in that it's awful to be put in that position where your leader tries to make a fool of you.

What I want to do is I would like to appeal to your best values. I believe that all of you actually in your hearts believe in democracy and that people should be treated fairly and that they should have a chance to comment on legislation before it's passed. I think you should be standing up for those values. I think you should admit that these hearings are a sham and that we need new hearings once the amendments to the bill are available, which I understand will be Monday.

I wanted to end with one of the great politicians of our age, a man called Vaclav Havel, who is the President of the Czech Republic. He's a man who spent most of his political career in jail because he spoke up against the dishonesty of the government, the sham of the government when it tried to have hearings and in fact they were sham hearings. He's put out a recent book of speeches that I commend to you. It's called "The Art of the Impossible." He made a speech in Athens in May 1993 and I just want to read you three paragraphs from it, which I think are really on point because he's a man who values politicians immensely. He thinks the job that politicians do is very important, as indeed do I, but of course he talks about living in truth. Here's what he says:

"I find it fantastic that today's civilization makes it possible for the whole world to witness important events no matter where they happen in the same instant. It is marvellous that people can communicate with each other immediately when they want to, and that they can meet at a few hours' notice." We've just seen that on television right now, the discussion Mr Hardeman had with the people in Ottawa.

"I also deem it immensely important that politics is under the scrutiny of a free and independent press. The only thing that worries me is the depersonalization and dehumanization of politics that has come about with the progress of civilization. An ordinary human being with a personal conscience, personally answering for something to somebody, and personally and directly taking responsibility, seems to be receding further and further from the realm of politics. Politicians seem to have turned into puppets that only look human and move in a giant, rather inhuman theatre. They appear to have become merely cogs in a huge machine, objects of a major automatism of civilization that has gotten out of control and for which nobody is responsible.

"Today's world, as we all know, is faced with multiple threats. From whichever angle I look at this menace, I always come to the conclusion that salvation can only come through a profound awakening of man to his own personal responsibility, which at the same time is a global responsibility. Thus, the only way to save our world, as I see it, lies in a democracy that recalls its ancient Greek roots. Democracy based on an integral human personality, personally answering for the fate of the community."

I think that's a challenge you should take up. We should be honest about this and say we've got to see what the legislation is and then we've got to have real public

input. You're the people who can ask for it. I think that's your democratic obligation, and I hope you will accept it. Thank you very much.

The Vice-Chair: Thank you very much for your presentation. That allows approximately four minutes per caucus for questions and answers, and we begin with the third party.

Mr Christopherson: Thank you, John, for your presentation. I don't know that I have any questions, but I have a couple of thoughts in response to your presentation. If there's an opportunity for you to respond to that, terrific.

First of all, it's a magical moment for me when any former mayor of Toronto rolls in here and calls these guys a bunch of commies. That gives me a warm feeling all over and I'll hang on to that for an awfully long time.

Interjection.

Mr Christopherson: The other thing I want to focus on is about the process — and you can always tell when I get to them because they start heckling. Other than that, they clam up.

Your talk about the process and the need for the amendments to be present. I don't know if they'll go down this road with you but they have with others, saying, "Well, the usual process is that we hear what people have to say and then we consider it and then we offer up amendments based on that," and then suggest that this is not different.

Of course, this is entirely different, given that the minister announced a bill and then before we even got to the hearings announced that she was gutting it. Basically, we don't have Bill 136 any more, and your point is, without knowing the amendments, we don't know what the bill is. That's unlike anything that's ever happened here before.

You're going to hear that they're listening, that they're going to want to consider. But if you know the process, as I know you do, that's simply not possible. It's not practical; you can't do it. The hearings conclude tomorrow at 5 o'clock in the afternoon. By 10 am Monday morning we have to have our amendments in and the government's supposed to have theirs in. Interestingly, we don't get the final report on the summary of the presentations from tomorrow from our research staff until 9 am Monday morning.

How all that's supposed to happen, including if they're serious about considering things — I haven't heard an announcement about a special emergency cabinet meeting, and of course it takes a cabinet meeting to make any major changes. So they have already decided what they're going to do and have passed it through their cabinet process, or they have absolutely no intention of listening to what anyone has to say, and since there isn't any other piece of that decision-making process, that is the case in my opinion. This is just a sham, and I don't think we can scream that from the rooftops enough.

It reminds me of Bill 7, where they brought in a brand-new Ontario Labour Relations Act, entirely brand-new, without one minute of public hearings. When you look at

the history of this province, even every Tory Premier who thought of changing one comma in the Ontario Labour Relations Act personally phoned the president of the Ontario Federation of Labour of the day to talk about it to see whether that was going to create a problem, and this is that same kind of sham process.

I guess the only other thing I would say is clearly Mr Hastings didn't want to hear what you had to say because he stormed out of here shortly after you began.

Mr Sewell: I don't disagree, but I think the individual members have a personal responsibility and that's what I want to call on, Mr Newman, Mr Hardeman, Mr Maves, and the Chairman, Mr Ouellette. We aren't automotons; we're individuals. We have a personal sense of responsibility. I want people to respond to their own personal values, not to hide behind a party. I mean, we're back into the Communist Party thing. People hid behind the party: "Ah, the party knows best." Parties don't know best. Individuals know much better. I call on you gentlemen to rely on your democratic values, and I'm sure that you have, and object to this situation.

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Mr Maves: Thank you very much for your presentation. Mr Christopherson notes that he's happy to have the government called Communists by yourself, and I guess we could say the same thing. During the Social Contract, which you didn't make presentations on because they didn't have public hearings, it didn't allow collective bargaining at all.

Mr Sewell: I think the government was wrong. They were wrong.

Mr Maves: Right. Good, I'm happy to hear that.

Mr Sewell: But it's the same point. They were wrong and you're wrong. Same thing. Don't miss it.

Mr Maves: I think I have the floor at this point in time. I know you don't want to hear other people's opinion. You just want to steal the floor, but —

Mr Sewell: I respect your opinion, Mr Maves, and I responded to it.

Mr Maves: How can you tell? You haven't heard it.

Mr Sewell: Yes, you made an opinion about the Social Contract and I agree with you on it.

Mr Maves: I just want to read into the record that other people, supporters of the government back then, said the same thing as you have said: "The Social Contract takes our right to negotiate away. It really takes us back to a Communist regime, a dictatorial government."

They had no hearings. We are at least having hearings.

I'll also say, Mr Sewell, in 1989 —

Interjections

The Vice-Chair: Order, please.

Mr Sewell: I don't think you come out too well in that comparison.

Mr Maves: Let's talk about that comparison. I'd like to talk about that comparison, since you've brought that up. In 1989, the Liberal government passed 93 bills, had 529 hours of hearings. In 1994, the NDP government passed 40 bills, had 681 hours of hearings — a better record than the Liberals. In 1996, the PC government

passed 33 bills, with over 720 hours of hearings. In that comparison I think we fare quite well.

Mr Sewell: Let me comment on that, if I could.

Mr Maves: Certainly.

Mr Sewell: I'd be delighted. I think it's interesting to run by numbers, but I don't think they mean anything, and here's a couple of reasons they don't mean anything. The habit of this government is to introduce amendments that have no relationship whatsoever to any of the presentations that have been made. That's my experience in Bill 103, where in fact you had very many hours of hearings. You heard about half the people who wanted to speak, not everybody, and in fact the amendments had nothing whatsoever to do with the hearings. The hearings were a sham.

I think what you've got to start doing is looking at quality. That's what we're dealing with here. We're dealing with something — I guess it's the bravado of you guys that really gets me, that at the end of the day you don't care what people think. It's like the megacity. You know, "You can have a vote; we don't care what your vote is."

You can have people talk and you say, "We don't care; we've got an excuse as to why we don't have to listen." I think you've got to start looking at what your democratic obligation is and get off your numbers and start dealing with quality.

Mr Maves: I would like to do that —

Mr Sewell: You're talking like the automaton that Havel was talking about.

Mr Maves: I remember in Bill 103 you talking about the government's intention to steal reserve funds.

Mr Sewell: Yes.

Mr Maves: I saw that on your web site, and I saw that in a lot of presentations.

Mr Sewell: I'm glad you haven't, but in fact you haven't protected them.

Mr Maves: And we brought in —

Mr Sewell: Bill 148?

Mr Maves: — an amendment in Bill 103 to expressly say that —

Mr Sewell: No, you didn't, not about reserve funds. No siree. The only reference to reserve funds is in Bill 148, which is now being considered, and people are in there saying they are not being protected. Leach said at the end of the day he wasn't going to make that amendment after all and he didn't. I might say he brought in his amendments on the Thursday evening of a Good Friday. That's when I went to his house, to say, "This is shocking; you can't do this."

Of course he says, "Of course I can."

Mr Patten: Thank you, Mr Sewell, for coming this morning. Whether people agree with you or disagree, one thing is certain. There are few people who have demonstrated the love and the concern and the diligence to fight for their community, and I want you to know that I respect you for that.

Mr Sewell: Thank you very much.

Mr Patten: I share your characterization of this hearing. It is a weird duck, because as you say, you're not really sure what you're dealing with. The government says, "Take the word of the minister." It's taken a couple of days to absorb because we didn't have a copy of her speech when she made a presentation. As I go through the detailed comments of what she said, I'm more and more convinced that the reason the amendments are not before us, and none of the members on the government side have disputed this, is because I expect that they will transfer all the criteria from the two commissions they abandoned and place them under the other bodies that people are asking for, but impose the same criteria that they had on the commissions. That, I believe, is the reason they are not placing them us, and I think when that happens, certainly the major unions are going to hit the roof —

Mr Sewell: Yes, I agree.

Mr Patten: — and they will feel that they have been misled.

I don't know, sir, whether you have had the opportunity to hear the comments of the minister at her opening remarks at committee. Did you have that?

Mr Sewell: I have a general awareness of them, but I haven't seen a copy of them, no.

Mr Patten: The transcript is available, I believe, from the clerk, Mr Arnott, outside. But if you go through very carefully and you look at her words, she is empowering with new powers all of these bodies with the functions and responsibilities that were given to the LRTC and to the Dispute Resolution Commission, so —

Mr Sewell: Then they'll really have to change the title of the act, right? They're going to have to get rid of that word "stability," because I think the world will crack apart very quickly.

Mr Patten: My comment on it is I was here from 1987 to 1990. I lost in 1990 and I worked for a children's hospital. Between that time I've come back and I must tell you that I feel ashamed to be a member of this Legislature, which in my opinion is the most undemocratic legislature in all of Canada. I cannot represent my people, nor my caucus, at hearings of this nature in the fullest sense and in the sense in which I believe the legislation is intended because of the imposition of time allocations and the short-circuiting of the opportunity to even respond appropriately.

In Bill 99 we had only four days to draft our amendments following the hearings. We have one hour of one sessional day to do that. Obviously we will be working all through the weekend, which we will — I don't mind doing that; I do it all the time — but the fact remains that we will still not see the amendments. And once the amendments that are put forward by the government are submitted at 10 o'clock on Monday morning, the time allocation motion says you cannot amend those amendments.

So even in discussion as we reflect upon those we may have some thoughts — as you suggested, "Maybe it should go a little bit this way; we might agree with you somewhat on this but to ameliorate the legislation or the

section, how about doing this?" — we can't even do that. If that isn't a denial of democracy, I really don't know what is.

It's difficult to get out to the press in particular to explain to them the process of what goes on here. They don't care about process because they are so issue oriented, but the underlying issue of democracy, as you stated, I feel very deeply about. It is undermined in Ontario and I believe it is the most undemocratic Legislature in all of Canada at the moment.

The Vice-Chair: Thank you very much. That concludes the presentation time. Personally I'd like to thank the presenters today as well as the members for a minor footnote, that being that this is the first time this committee has partaken in video teleconferencing. This committee stands recessed until 1530 of the clock today.

The committee recessed from 1157 to 1532.

CAROL BUTLER

The Chair (Mrs Brenda Elliott): Our first presenters this afternoon are going to appear before us by way of teleconferencing from South Bruce, and our first presenter is Carol Butler. Thank you very much for coming before us this afternoon.

Ms Carol Butler: I thank you for allowing me to come to speak today to voice my objection to the Public Sector Transition Stability Act, Bill 136. My name is Carol Butler and I was a home child care provider for Wellington County Social Services from August 1991 to June 1995. While many parts of Bill 136 are unfair, I will speak only to the one part of this legislation that was written to stop me from exercising my right to a fair and impartial hearing to determine if I should be able to collect pay equity.

Subsection 4(1.1) reads, "An individual who, on or after the effective date, provides private home day care as defined in section 1 of the Day Nurseries Act in his or her own home is not an employee for the purposes of this act."

This section of the Public Sector Transition Stability Act is a direct interference with a case that is currently before a judicial body known as the Pay Equity Hearings Tribunal. How do I know this? Because it is my case that this piece of legislation covers. You could call it the Carol Butler amendment.

I started providing home child care in 1985 in Metro Toronto. At first, I was privately working 12 hours a day for the vast sum of \$10 each day. I believe that in the same year I began working for York private home day care for wages that were really not much better. In December 1988, I moved to Peel region and provided home child care for their agency, and in 1991 I moved to Wellington county and continued providing home child care there.

On a part-time basis, I completed my early childhood education diploma, and in 1992 I graduated with high honours. During the vast majority of my time with these agencies, I questioned nothing and I did everything I was told. I accepted their wages. I took no more children than

they told me I could have. I signed their contracts, their agreements. I never charged any more than the fee they paid, as this was not allowed. I kept my home up to their standards. I let them into my home each month. I provided police checks and doctors' certificates ensuring that myself and my family were of no risk to the children. All this control and I was supposedly self-employed.

When I moved to Wellington county, their terms and conditions were much the same as the agencies where I had worked before. I willingly went along with them, but for me things were starting to change. I was tired of the label of "babysitter," and I believed that home child care providers needed to gain professional recognition and respect.

In order to accomplish this, I became more involved in learning about my profession and ways to try to improve it. I met many contacts around the province and I learned from them the way home child care was carried out and the concerns they had. With this education, I began to try to stand up for issues that concerned me. I began asking for pay raises in order to allow me to carry out a high-quality program. For the most part, my requests fell on deaf ears. I requested the right to have input into a variety of conditions that I had to work under, and again that was rejected.

In 1992, my pay schedule was changed with no notice, and despite my complaints all over the county, nothing was done. When I wrote to the then NDP Minister of Labour asking for protection for self-employed individuals such as myself, he told me that all I had to do was change the contract I had. That was a major mistake, because when I finally had the nerve to question my agreement with the county in 1993, they told me that if I did not sign it, I would be placed on two weeks' notice. I'd be terminated. They "don't sign individual provider agreements" was what I was told.

I then looked at all my past experiences of providing child care in my home in a new light. If I was self-employed, why do I have to sign their agreement? Why aren't they signing mine? If I was self-employed, why did they set the rate of pay instead of me? If I was self-employed, why do I have no say into the conditions I work under, such as training and qualifications?

When I attempted then to set up an advisory board in the county in order to give parents and providers input into the system, it was rejected. Well, it wasn't really rejected. They felt that we as providers had 10 minutes at the start of each of their planned meetings, with their staff supervising us, to discuss any of the concerns we had. That was all that our input was worth: 10 minutes at the start of a meeting once a month.

I began to feel that I was not self-employed, but I was really unsure what I should do about it, so I continued to bring my concerns both to the county and to the government of the day, although no changes were ever made. I also then decided that as my county clients left my home, I would not replace them with new clients from there. The aggravation was just not worth it. It seemed to me that I was only self-employed when it was convenient.

It was in 1994 that I heard from someone that people providing home child care had the right to pay equity. I thought long and hard about it and I decided that the time had come for me to support my sisters in the field. I did not realize that I was the first.

In December of that year, with only one county child left, secure if I was terminated for my actions, I filed for pay equity. In February 1996, a ruling from review officer Beverly Dalys came down in my favour. It granted that providers were to be a job class and that we were entitled to pay equity. Wasting little time, Wellington county appealed, and as of today we are before the Pay Equity Hearings Tribunal, having our case heard and ultimately decided by an impartial third party.

This case has not been without toll on myself, my family, my day care children and my parents. I have spent many days away from home relying on my husband to take care of my son and my day care children. Friends have taken the children if my husband is unavailable, and my parents have been so very supportive, allowing for arrangements to be made for the time that I have been away.

My day care children have been great, and while they accept the arrangements that have been made, after my being away five days in August, one of them finally said to me, "Carol, when won't you have to go away any more?" I felt so bad. How do I explain to a seven-year-old that I am trying to stand up for what I believe in, a value that I do try to teach her? I sometimes wonder what I'm doing there when where I really belong is at home teaching and loving my kids.

1540

I have had no vacation. My days off are taken at hearings. I have had to cut back on my education because I don't have any time to work on school assignments. I don't think I will ever be able to get a job anywhere, because the newspaper headlines have said I'm responsible for closing down home child care across the province. It's a really heavy burden to bear just because I had the nerve to point out that I was exploited and underpaid.

I do not really think that people understand the job I do, because if they did, they wouldn't be questioning me and fighting my call for equality. I currently work 55 hours a week, although in the past I have worked from Sunday night at 7 pm to Friday night at 6 pm. I feed children breakfast, lunch and snacks, and on occasion dinner. I take them to the park, to play group, and on learning trips such as the fire station, a pig farm and our local nature centre, just to name a few. I plan and implement an educational program with the children based on each child's needs. I work with my parents if we have concerns with a child's development, and in the past I have been involved with other professionals in order to serve a child better.

Out of the money a provider is paid, often around \$18 to \$22 a day, we have to feed the children, provide books and toys for them, crafts and craft supplies, cleaning supplies, bedding, extra insurance on our home and, when working for an agency, police checks and medical checks. Out of the \$20 a day, working an average of 10 hours, I

receive \$2, out of which I have to pay for the above-mentioned supplies.

Many people feel that I don't really work for a living, that I'm just at home. While it is nice that I am at home for my own child every day, I, like other working parents, do my shopping, clean the house and go to the doctor after work. Many is the night my family waits until almost 7 o'clock for dinner, as I am outside supervising my children and can't be in the house cooking. It was this sort of an attitude over 20 years ago, when women first began performing child care in their homes, that allowed us to end up in the pink ghetto where we currently reside.

During the day, I have many roles. I am a resource to parents as well as their caregiver. To the children I am their friend, teacher, chauffeur, nurse, cook, cleaner, playmate and surrogate parent. For this lofty sum that I receive each day, I receive no pension, no paid vacation, no paid sick time, no EI and no guaranteed placements. We would not in our First World country tolerate paying people in sweatshops this poorly, yet we think it is quite acceptable to pay the mostly female workforce caring for the most important resource we have, our children, this type of wage with no benefits.

This issue is not only based on money. It has to do with fairness, respect, dignity and the right to have a say in the conditions you work under. My experiences in working with agencies have shown me that I have no rights. If I don't like it, I can leave. But why should I have to leave a job that I love and one that I am good at? Why can't I remain at it and have some basic human rights given to me? Children should have the right to a loving, stable, safe day care situation, and that is often denied to them in this field because of the low pay, lack of job security, or the women providing the care having to take in more children than they are allowed just to make a decent living.

If the government chooses to pass Bill 136 with this amendment left in, you will have succeeded in telling a group of skilled professional women that they are no better than the 12-year-old girl next door who works on Saturday nights. You will be taking away my right to have my case heard and decided on by an expert body skilled to decide this case, the Pay Equity Hearings Tribunal. Again, let me remind you that I won the initial ruling. It was my former employer, Wellington County Social Services, who chose this route, not me.

It has been my experience in dealing with this government that who you are influences what is done. I have written and outlined my concerns in a patient, professional manner, and for my trouble have been advised that the government cannot comment. The municipalities in this province express concern about this issue and they get legislation. They have all banded together to raise funds to fight one woman who has said: "No. I will not be silent and continue to be exploited."

This legislation comes right in the middle of my case, with three more provider pay equity cases waiting. The honourable minister, rather than waiting to see the outcome, is trying via this clause to directly affect my case and those that may follow. In order to ensure that no

provider will ever succeed, she has backdated the effective date of this legislation to January 1, 1988, almost 10 years ago.

She knows this issue, and under pressure she has responded directly to the voice of the municipalities to act on it because they perceive me as a threat to their continued exploitation of women. I wrote to her over two months ago asking for the right to have input into this legislation and to ask her also, what do providers have to do with public sector transition stability? I have yet to receive a reply. Yet dialogue does appear to be going on with the municipalities. I've heard there have been three months of consultations, yet no one consulted me, a party directly involved.

The Minister of Labour did not even have the common courtesy to advise me about these hearings. I was informed by the office of my MPP, Ted Arnott, who has been as supportive and helpful as he is able to be.

I ask you to remember what is happening with Bill 102 and how the courts have ruled that the government was wrong in stripping those women of their pay equity rights. I am telling you right now that should this legislation go through, I will do whatever it takes to ensure that my rights are not denied.

How far I will get, however, is debatable. I lack the deep pockets of the municipal and provincial governments to fight on forever. My resources are limited. This government has even cut funding to Pay Equity Advocacy and Legal Services, preventing me from obtaining a lawyer unless I pay for one on my own. The fact that I don't need a lawyer before the pay equity tribunal or the labour board is cold comfort when my former employer walks in with one. The ironic thing is that as I am fighting to keep my human rights and dignity with the lawyer that I have had to hire, my tax dollars are paying for the municipality's and/or the province's lawyer as well. Where is the justice there?

Today it is not only my rights but the rights of all women seeking pay equity that are being taken away. Now I am forced to ask you, whose rights are next? If the government does not like the fact that a journalist is writing certain stories, will they lose the right to print it? My biggest worry is that I also have a case pending with Wellington county before the labour relations board, and again I will spend the effort, the time and the money only to see legislation changed to prevent me from succeeding once more.

I never have asked and I never will ask for anyone to interfere in my case to ensure my victory. I believe that I am right and I believe that I will win, but no matter what, I deserve the right to see this issue through and have a decision from the Pay Equity Hearings Tribunal, the labour relations board or, if necessary, the Human Rights Commission or the courts. No one should have the right in a democratic province to legislate that away.

In conclusion, I would just like to reiterate to you my request to be treated on an equal judicial basis. If Bill 136 is passed into law with this amendment, the government will have effectively condemned not only myself, but other

women who have chosen to nurture, love and educate children, to consider forsaking their chosen profession.

Home child care is a predominately female work group. With this bill, you are forcing the women and children, many of whom are among the poorest of the poor in this province, to bear a huge chunk of the fiscal restraint. You are sending a clear message to us that the service we provide is not valued and that the children we care for are not worth an extra few dollars in order to ensure they are in a safe and loving environment.

Even the most heinous criminal is given every benefit of the justice system without ministerial interference of any kind. I ask you, members of the committee, to delete this section of the bill and to allow justice to run its full course.

1550

Mr Jerry J. Ouellette (Oshawa): In your presentation, I believe you said you worked on a contractual basis with your employer?

Ms Butler: Yes.

Mr Ouellette: I don't understand. I just need to understand the situation a little more. You had difficulty with the contract, or is there something that you're arguing against within the contract itself that you have a disagreement with?

Ms Butler: Yes, there was, and when I questioned my agreement with them, I was advised that if I failed to sign the agreement I would be terminated.

Mr Ouellette: These questionings came up after you had signed the initial agreement?

Ms Butler: Yes, because the agreements had changed.

Mr Ouellette: Oh, the agreement had changed. That was something I didn't understand.

Ms Butler: Every year the agreements would change.

Mr Ouellette: I see, so every year you have to sign a new contract.

Ms Butler: Yes, and if you don't sign the contract you don't work.

Mr Ouellette: In business, I think that's a normal situation. I'm very familiar with that. I don't know if we have any time for —

The Chair: That's all. We're moving now to Mr Patten from the official opposition.

Mr Patten: Hi, Carol.

Ms Butler: Hi there.

Mr Patten: I guess this is better than nothing.

Ms Butler: Thank you. I appreciate it.

Mr Patten: Did you have to travel far?

Ms Butler: Just over an hour and a half.

Mr Patten: I hope they subsidize your travel, anyway.

By the way, we will be putting forward, at least on the opposition side, a recommendation to delete this section. The pay equity coalition made very convincing arguments. You also know the court ruling, and the minister said two days ago that she will have to consider that ruling in light of moving ahead on this section or not. It's kind of up in the air, but in any case, we will be putting forward a recommendation to delete this particular section.

I think your arguments of self-employment are quite convincing, when you have worked on your own for such a period of time and then all of a sudden it's you that has to be the contractee. I take your arguments as common sense: that you've put up your own money, set up your own arrangement and, all of a sudden, you happen to have to sign a contract for someone else and you aren't regarded as self-employed.

We don't have much time on our questions, but I'm glad to see that you were able to at least be with us today via this, even though it's not as good as being face to face. I hope at some point we'll have a chance to meet you.

Ms Butler: Thank you very much.

Mr Christopherson: Hi, Carol. Thank you for your presentation. I don't know if you know that yesterday at 9:30 we received a submission from the Equal Pay Coalition who, on page 10 of their report, talk about you, mention you and mention the specifics of what this change is all about.

Since I agree with everything you've said, I'd like to take this opportunity, through the Chair, to ask the parliamentary assistant: Bart, it's been raised twice now that this is a piece of legislation that's retroactive to January 1, 1988. You're making legislation retroactive almost 10 years. I would like to know whether or not it's accurate that this is meant specifically to capture Ms Butler's case?

Mr Maves: My understanding is that has nothing to do with Ms Butler's case.

Mr Patten: What is the reason?

Mr Maves: The home child care component is what has to do with Ms Butler's case.

Mr Christopherson: You're going to tell me it's completely coincidental?

Mr Maves: It's not just Ms Butler's case, I don't think.

Mr Christopherson: I know, but the decision, February 1, 1996, relates to the January 1, 1988, incident. You're telling me it's totally coincidental that January 1, 1988, is the exact date this is retroactive to, given the fact that legislation is rarely retroactive, let alone a decade.

Mr Maves: Because this is before the Pay Equity Commission, I really can't get into Ms Butler's case.

Mr Christopherson: You're not a minister. You can say whatever you want.

Mr Maves: I think I'm restricted because of my duties as parliamentary assistant.

Ms Butler: But you can pass legislation.

Mr Christopherson: That you're defending this legislation is absolutely correct. I've got to hear this a third time. You're telling me that it's absolutely coincidental that a piece of legislation that has nothing to do with municipal restructuring goes back almost a decade, to the day of Ms Butler's case, and that a credible, well-known organization like the Equal Pay Coalition, in addition to this individual, is making the allegation that it's specifically to go after her? You're going to deny that on behalf of the government?

Mr Maves: As I said, I can't respond directly to Ms Butler's case, Chair.

Mr Christopherson: I'm not asking you to. I'm asking you if it's coincidental that those two dates coincide.

The Chair: We're running out of time. Do you have any questions for Ms Butler?

Mr Christopherson: No. This is as close, it sounds like, that she has gotten to this government. I was trying to ask a question of one of the officials of this government on her behalf. I didn't get one either, Carol, but we'll keep going after them for you.

Ms Butler: Thank you.

The Chair: Carol, that's our time. Thank you very much, on behalf of all the members of the committee, for coming before us this afternoon. You did very well and we appreciate you taking the time to bring your advice to us.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 1189

The Chair: I'd like to now, also by teleconference, invite Mr Bill White, who is the CUPE local representative from Local 1189. Good afternoon and welcome to the standing committee on resources development. We're very glad you were able to come before us this afternoon.

Mr Bill White: Thank you, Madam Chair and members. I am very pleased and honoured to speak to you today and thank you for this opportunity. My name is Bill White. I am a city planner with the city of Owen Sound and vice-president of Canadian Union of Public Employees, Local 1189. That's the inside workers for the city of Owen Sound.

Owen Sound is a separated city, independent of county government, located about two hours north of Toronto on southern Georgian Bay, with a population of 21,000. Our local consists of 25 members, roughly half of the workers within city hall, with an average salary of about \$26,000 per year. This includes janitorial, administration, construction supervision and some technical staff. I intend, on behalf of our members, to present our perspective on Bill 136, the perspective of a small union in a small urban municipality.

Municipalities over the last few years, even before the mandate of the current provincial government, have faced the prospect of reduced transfer payments. Cooperatively, each year union and non-union workers have worked with city council and the public to find ways to deal with continued funding reductions. This cooperation occurs for many reasons, but mainly because we care about the services we provide for our community. This is not to diminish the fact that these services are our jobs and we would like to keep them.

When I say "working cooperatively with council," I mean our staff has been involved in everything from an expenditure reduction program called OSCARS, which stands for Owen Sound Can Achieve Real Savings, to service analysis, which identifies and evaluates each service of the city, to wage rollbacks and, unfortunately, some layoffs. For our union membership, jobs have only been lost through attrition. Our members appreciate that our

council has placed a value on public service and has not taken a slash-and-burn approach to service delivery. Council has also managed to keep tax increases near or below inflation for several years.

In fact, our membership appeared before council on Monday and secured unanimous support for a resolution, which I will include with my package, asking the Minister of Labour to follow through with the types of changes promised to Bill 136 last week, while consulting with labour, municipalities and communities.

Municipalities, of course, are not out of the woods yet. We hope the elimination of the municipal assistance grants and the downloading of many other services by the current government over the next year or so will be the end of the assault on our municipal budget. Lately, when we think the worst is over, we are proven wrong.

It is within these rather significant budget constraints that we face the inevitable restructuring issue. Owen Sound, like many other communities across the province, is deeply involved in restructuring talks with adjacent municipalities with the idea of saving taxpayers money. It is likely that within the next year there will be restructuring involving the city of Owen Sound. The exact form of this restructuring is not known. We expect that all or parts of several rural municipalities will amalgamate with the city as a lower tier providing certain local services within a modified county providing other, more regional services, but we really do not know for sure.

1600

What does this mean for our membership and where will Bill 136 take our members? Being the only union employees in the administrative end of municipal work in the area — there are unionized outside workers for the city and the county — Bill 136 seems to say that our collective agreement remains intact for a limited time. Those workers in the amalgamated municipality who do work that is similar to ours will, in theory, become part of our membership. Depending on the number of employees as a percentage, there could be a vote as to whether the union representation is to be maintained.

Assuming union representation remains, these non-union workers achieve the benefits of our collective agreement and would gain seniority despite the fact that their years of service were in a non-union environment. This means, for example, that clerks of the smaller townships, possibly unsuccessful in their bid to be clerk of the new municipality, would have bumping rights over secretaries and administrative assistants who have served many years in a union environment.

If at any time during this transition there is a problem that cannot be resolved, there will be the Labour Relations Transition Commission to impose some sort of solution, with what we understand to be limited representation from parties.

The first collective agreement for the new municipality is to be negotiated between the new council and the new membership. If at any time any party feels the negotiations are not progressing, referral to the Dispute Resolution Commission is possible. During the time the new agree-

ment is negotiated, members have no right to strike. This commission can also impose a solution, again, with restricted representation by affected parties. This scenario indicates as best as we can tell the possible impact of Bill 136 on a small municipality like Owen Sound.

Our membership has four potential problem areas with Bill 136 I would like to raise. These are (1) infringing autonomy; (2) unnecessary duplication; (3) lack of fairness; and (4) loss of traditional labour rights.

Infringing autonomy: You know that soon municipalities will function with little provincial financial support. Many responsibilities are to be downloaded for councils to address. We have seen this in the municipal planning field where provincial involvement in land use issues has been almost eliminated. This is apparent in transit where soon subsidies will be eliminated and municipalities free to decide on a level and form of their transit service. This is also the case with many other downloaded services.

Considering the lack of financial support, why then does this government feel the need to dictate the terms between a municipality and its employees? Because with these appointed commissions the provincial government will be able to directly dictate the contents of our collective agreement if one of the parties, probably the employer, makes a request.

It seems that if the province downloads the service and no longer pays for the service, then it should be up to the municipality to decide in cooperation with its workers how to provide the service. There are existing means to deal with contract disputes through the labour relations board which I'm sure other speakers for the labour movement have spelled out to you in detail and with which I have little familiarity.

Suffice it to say, based on the experience in Owen Sound, Bill 136 is an unnecessary infringement on our autonomy and a possible vehicle for this government to impose its own agenda on municipal service it says it will no longer provide.

Municipalities do not need any more tools to deal with amalgamation transitions. These tools exist now. Bill 136 is unnecessary in our situation. Municipalities under a population of 50,000 could be exempt from the act. The act could be repealed in its entirety.

Unnecessary duplication: Our members are not in the habit of using any board to resolve any dispute with our employer. A board is a board, but it seems to our members that to appoint two new commissions, the LRTC and DRC, with staff to deal with transition or first collective agreement disputes is a waste of money. The Ontario Labour Relations Board, by most accounts, does this work now, using set policies and procedures. To reinvent the wheel with new appointees heading these commissions strikes our members as the government trying to impose its agenda on services it gave up.

We take some comfort in the Minister of Labour's announcement last week with respect to these commissions and ask that the language that implements these

promises reflect the principles the Ontario Federation of Labour requested in its alternatives to the government.

Lack of fairness: The saddest part of the bill, in the midst of all the rhetoric on commissions, right to strike, seniority and successor rights, is that no one, when they drafted this bill, thought to include one simple statement in the purpose section of the Public Sector Dispute Resolution Act and the purpose statement of the Public Sector Labour Relations Transition Act. That statement is "fairness to the employees of the affected employer."

There are all kinds of words that refer to ability to pay, efficient transitions, prompt resolutions, and these are all really important purposes, but the lack of any mention of fairness to employees stands out like a sore thumb to my membership. These acts must include a statement that their purpose includes among all those other lofty goals fairness to employees. By not saying this, it is clear the act is not intended to be fair.

It would be even more appropriate for the purpose section to include "maintain the intent and purpose of existing collective agreements where possible." This could then be balanced out against the other purposes contained in the acts. Without mention of fairness Bill 136 comes across as an attack on workers — workers who have to provide services the provincial government apparently cannot afford. There is no one else to download the service to. Services may be eliminated.

Loss of traditional labour rights: Seniority is important. Often it is the only way to distinguish employees with many similar positions. The fact that non-union positions in an amalgamated municipality gain automatic seniority is an insult to our members. Seniority is earned through collective bargaining year in and year out as "we," a membership. Bill 136 should not provide for automatic seniority to non-union workers.

In 25 years of representation, our local has never had a strike, rarely has filed a grievance and has never, in the 11 years I've been employed with the city, been to any third party to resolve our contract. The closest I've seen our union to participating in any strike is today. Our members cooperate and negotiate with our employer, but as a small union we have to have as our bargaining chip the right to strike. We are not essential services. Our only hope to maintain or even improve working conditions for our members is the remote possibility that we may strike if necessary. The bill clearly eliminates that right, unless the minister follows through with the changes promised last week in a manner that is acceptable to the Ontario Federation of Labour.

In the interests of time, I will not enter the privatization argument. The bill paves the way for privatization through the decisions of the commissions and through the stated purposes of the act. I firmly believe that if it comes to that, our members can provide services by a more affordable method than any private business. We have stated this to our council and they agree.

Our brothers and sisters in the other sectors, hospitals and education, will have to speak to you on their concerns. Our union executive deals with these matters on a less

than part-time basis. I cannot comment in any effective way on the impact of the bill on these sectors. I hope the government sees fit to implement the promises made last week in an effective manner and to properly deal with the concerns of the other sectors.

We hope we are not facing a divide-and-conquer situation. The mandate of any government is fixed; it does not last forever. If our voices are ignored now, I am certain they will not be ignored at election time. Thank you again for this opportunity. I would be pleased to answer any questions from the committee.

1610

Mr Patten: Good afternoon, Mr White. A couple of times during your presentation you said you hoped that the statement of the minister would follow through with the changes so you were limited to dealing with simply what was there at the moment, the existing bill. Would it have been more helpful to have the amendments based on the minister's statement to deal with, rather than speculation?

Mr White: Yes.

Mr Patten: I have a question for you because I'm supportive of unions and activities but I'm not sure if you're suggesting — I want to give you a scenario. How much time do I have?

The Chair: About six minutes, so lots of time.

Mr Patten: If you had, let's say, two secretaries, one unionized, one non-unionized, and you're in two different municipalities that are being amalgamated, and let's say the non-union secretary had worked there for 15 years and the unionized one had worked there for five years, are you saying the unionized worker should get priority over the non-unionized worker who was there for 10 years longer?

Mr White: I'm not saying that necessarily. I guess what I'm saying is that the seniority rights for the non-union employee should be negotiated as part of the collective agreement, and how we deal with the 15-year non-union employees would be dealt with between the municipality and our local. I think you have to look at qualifications as well, as in any union.

Mr Patten: It seems to me that seniority is seniority. You look at the issue in a way and, all things being equal, it seems to me the one that has the most seniority, the one that is on the list with an extra year or two or whatever it is, if they are deemed to be good employees, they continue to work there without any qualifications or disqualifications.

Having said that, you identified the area of fairness, with which I agree. The area of fairness has been taken out of this act, as it's taken out of the act that deals with workers' compensation as well. We argued vehemently, to no avail, unfortunately, and without satisfaction in terms of the response that the use of that term is important. The minister continues to use that word, but fails to see its value in the act itself.

When you identified some of the four problems, do you anticipate that there may be some difficulties in the transit area? Did you say that was one of the things that may be a problem in Owen Sound because of the lack of funding and the possible cuts to service?

Mr White: I expect that as a result of the downloading, one of the topics around the council chambers is that transit may be one of the services that suffer.

Mr Patten: You had mentioned that your feeling was that you didn't feel the local situation required any kind of commission or board or outside body, that history showed in your region that that was there. It seems to me that in spite of whatever is put forward, that option is still there. However, if you take the original draft of the bill — and I think, by the way, that the original draft will be sustained by the time we end up even seeing the amendments — it does give the employer that little extra temptation in tough times to sort of utilize the hammer, as it might be called, to force a collective bargaining to arbitration or whatever, to force the process, because of the squeeze the municipality is under because of the existing loss of funds for some of their services. Would you agree with that?

Mr White: Absolutely. That's exactly our concern.

Mr Patten: Thank you very much, Mr White.

Mr Christopherson: Thank you very much for your presentation. I wanted to ask you a little different series of questions. Why do you think the government introduced Bill 136 in its current, original form? What was the purpose?

Mr White: I like to take a positive spin. I think they were looking to give some structure to a situation that is occurring across the province as far as amalgamations are concerned. I think they may in part have been responding to, say, the Association of Municipalities of Ontario, which had asked for some direction. And I think partly they were aiming at police and fire contracts. Many municipalities have indicated frustration with being unable to control some of the contents of those collective agreements.

I think it goes too far and attacks memberships like ourselves that maybe don't need that same sort of control, but that's my understanding of why they might have tried to pass this.

Mr Christopherson: Quite a few of your colleagues have been in, and some more are yet to be, to make presentations. They've been suggesting that had the government met with union representatives before they introduced Bill 136, listened to the alternatives the OFL had to put forward and done the listening then that they purport to be doing now, all of this could have been avoided and we could have had a piece of legislation introduced minus the attack on pay equity, minus the attack on the employee wage protection plan, that would have achieved the needs of employers without sacrificing the rights of workers. Would you agree with that?

Mr White: I think, as in my regular job, consultation early in the process always avoids the types of problems we seem to be facing right now. Our local would have participated in whatever way we could in those types of discussions.

Mr Christopherson: It sounds to me like your local is one of the relationships that would fall into the category of the 95% plus of collective agreements that are resolved without any problem, where everything's kept locally, and

quite frankly is not one of the one or two extreme examples the government likes to hold out as the reason they're going after the rights of workers. You mentioned under your category of infringing on union autonomy — I believe that was the category, your first one — that any party can make a request for it to go to the commission in the original law, and again that's all we've got to go by since we haven't seen the amendments. Then you said that would usually be the employer, in your opinion. Could you expand on why? Why would it be the employer?

Mr White: It goes back to the perception that this bill is somehow linked to trying to impose a privatization or a certain provincial government agenda. It's unlikely that our local would feel comfortable taking on an appointed commissioner of the provincial government, taking our chances with our collective agreement with that commission. So if an employer — and I will certainly emphasize that our employer is not like this, but it will be an amalgamated employer. If an employer wanted to make some gains in a collective agreement, that would be the way to do it, to go to a commission that consists of what are appointees of this government with a so-called agenda towards privatization, in that they could begin through this commission to gut out any protection our workers had in a collective agreement.

Mr Christopherson: If I can, I would take it a step further. Not only would they use it to gut the gains that are in the collective agreement to pay for some of the downloading costs, but also in terms of privatization to make it more lucrative and attractive to the government's friends in the private sector who would love to buy up profitable current public sector services, privatize them, have a gutted collective agreement and make a bundle of money off of services that are currently provided for and by the public.

Mr White: Well, we've heard rumours about that sort of thing. It's a different world in Owen Sound than, say, south of the 407, but we've heard of that. It would be an awful shame if that's the intention of these people. As I said in my statement, I would put the standard and the quality of the work of our people up against anyone. I've said it to our council. I'd love to see them try and implement an OSCARS program or an expenditure reduction program like we did in a situation like that. Or I'd like to see them where our employees are staying hours and hours later than required to get work done when we've downsized. When you go to privatization, you'll pay for that, and you don't pay for it now. Our council has agreed with that. But we've heard what you said, and it is my deep hope that's not what is intended.

Mr Christopherson: A last question: The government of course now has surrendered. They've realized they can't take on this fight because there's too much public support and they can't win it, so they are caving in.

One of the concerns that labour has still is that some of the major denials of rights that are currently taken away in Bill 136 will also be transferred into the OLRB. Labour leaders have come forward and said: "We want to get rid of these commissions, and these responsibilities can go

into the existing labour board, but it's got to be based on fairness, it's got to be based on equity, and it's got to be based on equality. You've got to jettison all of the things in the two commissions that deny that."

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Not that I want to keep you awake at night any more than this may already be doing, but your third point was that you thought the government ought to include in the purpose clause a statement regarding fairness. We know that under the new Ontario Labour Relations Act, Bill 7, that this government brought in — they threw out the old one — and in the new workers' comp bill which attacks injured workers, in both of those cases this government removed the word "fair" from the purpose clauses. I'd suggest to you there's probably one hell of a fight to try and get it included in anything new they might do.

Mr White: As I said in my presentation, we do union work less than part-time and are unable to keep up with all the sorts of things you're saying, but in fact our membership picked that one out fairly quickly without having the benefit of knowing what maybe had been done with other pieces of legislation. It's a shame if that's the intent. It seems to me that fairness can be balanced out quite nicely with a lot of those other purposes in both of those parts of the act.

Mr Christopherson: Keep your eye on the ball and stay ready.

Mr Maves: Thank you very much, Mr White, for your presentation. To address a couple of your points, you said it should be up to the municipalities to collectively bargain their contracts. I would say to you that, as you know, the minister has said the Dispute Resolution Commission will be removed and replaced by the first-contract arbitration provisions that the labour movement asked for and got from the Liberal-NDP government of 1986.

But even before the government made these changes, there was an onus on both parties to collectively bargain their contracts, and the DRC couldn't hear disputes until it was satisfied that the parties had bargained, and had done so in good faith. I just wondered if you were aware that this was the case prior to the minister's announcement. And of course you were aware of the minister's announcement eliminating the DRC.

Mr White: I am certainly aware, and our membership is, that the onus is on a negotiated settlement. That's clearly in the purposes, I believe. We have every intention, and I believe our employer does, of utilizing negotiation to the best of our ability.

My concern as a part of our membership is that our council will change in an amalgamated municipality, and with the download of services and the need to find money, their perspective may change and their reason to negotiate may change. If you don't have the ability to even look at a work stoppage in that situation, our members are placed in a situation where they are unable to make any kind of impact on our employer.

Mr Maves: You also said that you believe the existing collective agreements should apply. Are you aware that this is the case? I'm reading from section 15 of schedule

B, "The collective agreement, if any, that applies with respect to employees of a predecessor employer immediately before the changeover date continues to apply." So immediately upon the changeover, your existing contracts continue to apply. Are you aware of that?

Mr White: Yes, I was aware of that, but then there will be a need to negotiate a new one with the amalgamated municipalities. That's when the process kicks in. We are aware that temporarily the agreement will be in place. It will be in the interests of the employer to negotiate a new one, likely, to provide for these new employees.

Mr Maves: I have to go back to what Mr Patten said, because you had said in your presentation you don't believe the non-union workers should have seniority recognition for their years of service to the same municipality that your members had given years of service to. I have difficulties with that, as I think Mr Patten did.

The bill clearly provides for that recognition. There might have been one other CUPE union to say this, but I don't think any other unions have made a case that they shouldn't have that seniority protection. I'm surprised to hear that. I want to follow up on Mr Patten and why you would believe that, in his instance, a non-union employee with 15 years with a municipality doing the same job as a unionized employee with 10 years' seniority should be treated differently, why the years of service shouldn't be recognized equally.

Mr White: I guess it goes back to the structure of our membership, who tend to be people who are lower-paid and have not exercised any kind of supervision experience, and the types of employees we expect will come into our collective agreement. That would be employees who may have been a little higher-paid, clerks and things like that, on their own in a smaller municipality. We see that as a potential threat to our members who maybe haven't got the qualifications of those people. We would like the opportunity to negotiate how this seniority fits in.

There are also situations where these clerks are part-time people. To automatically include them, in our members' way of thinking, creates a concern. It's a particular concern to some of our lower-paid administrative staff, who face the prospect of being possibly bumped out automatically by these higher-paid clerk-treasurers who may not get the top clerk's job.

On the other hand, our members recognize that in an amalgamated municipality we may all need to compete for our jobs. What we would like is to have the right to negotiate, not automatically have people bump us out of positions.

The Chair: Mr White, thank you very much for coming before us. We do appreciate that there are different perspectives in Owen Sound and we're very glad to hear from you this afternoon.

INDEPENDENT CONTRACTORS' GROUP

The Chair: We now move back to our committee room and welcome representatives from the Independent Contractors' Group, if you would come forward please.

gentlemen. I see we especially welcome a former member of the Legislature.

Mr Harry Pelissero: Thank you, Madam Chairman. It's good to be back, in a different capacity. We hope to make a presentation today that takes a little bit of a different spin or perspective on Bill 136. Certainly, individuals from the association I represent are going to be affected.

With me today is Phil Besseling of Besseling Plumbing and Heating in Stoney Creek, as a unionized mechanical contractor. John Bridges is present owner of Summit Restoration, an open-shop restoration masonry contractor who used to operate in and around the Toronto area. He can certainly talk about that.

Our presentation probably won't take more than five to seven minutes, 10 minutes max. We'll leave lots of time for questions. I'd like to turn it over to Phil.

Mr Phil Besseling: I'm here today on behalf of the Independent Contractors' Group. The ICG is an organization of open-shop and unionized construction employers who work to ensure the tendering process in public sector contracts is open to all to bid and perform work.

We have been following with interest the issue of amalgamation of public sector agencies such as municipalities and school boards. The concern of the independent contractors relating to Bill 136 is what happens to those municipalities which have an open bidding process for taxpayer-funded projects and which merge with municipalities which do not have an open bidding process.

The following is taken from our brief "Freedom of Choice," which is attached for your information. Metro Toronto, amendment to section 39 of general conditions, reads:

"The Metropolitan corporation, being bound by the collective agreement between the Carpenters' Employer Bargaining Agency and the Ontario Provincial Council, United Brotherhood of Carpenters and Joiners of America, any that is the work of the Carpenters' District Council of Toronto and Vicinity under the provision of the aforesaid collective agreement shall only be performed by an employer bound by such an agreement."

The Board of Education for the City of Windsor, general conditions, June 1990, reads:

"All electrical installation work so specified and described with the specifications on the working drawings for this project will be performed only by electrical contractors who are current members of the International Brotherhood of Electrical Workers."

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The Toronto Board of Education call for tenders February 12 and November 21, 1991, reads:

"Contractors, in order to qualify for the above work, must be in contractual relations with the Toronto-Central Building and Construction Trades Council and/or its affiliated unions."

When our members and their employees pay taxes, they are not identified as union or open shop. It should not matter when bidding on taxpayer-funded projects. We do not want to see the expansion of restrictive clauses as a

result of amalgamation. Our goal is to ensure there is an open bidding process.

Think of the message this restrictive clause sends to those employees who freely choose not to belong to a union and other taxpayers. The message is: "We have set up an arbitrary barrier which gives a monopoly to international unions. We are prepared to take your tax dollars but we are not prepared to allow you to work on publicly funded projects." Imagine the unions crying "foul" or "unfair" if those same public sector agencies had a clause which allowed only open-shop contractors to bid and work. They would want, and rightly so, to demand fairness. What we are asking for is fairness in the public sector tendering process.

In closing, we would ask the committee to bring forward the necessary amendment to Bill 136 to ensure that there is an open bidding process for any taxpayer-funded project. Thank you for allowing us to share our concerns with you. We're prepared to answer any questions the committee may have.

Mr Pelissero: Before we do that, Mr Bridges has a couple of things he'd like to share with the committee.

Mr John Bridges: Madam Chairman and committee, being a small contractor principally out of the city of Toronto or southern Ontario, up until 1990 we were able to form a bid and get work with Metro and the city. Mainly we're talking about work that was done around the Canadian National Exhibition. In 1990, this was eliminated and we were no longer permitted to bid on this work as the third party had initiated a union-only competitive clause on the work that was being done down there. As this had been a lot of our work and bread and butter, we felt that this was pretty unfair; same with Scarborough Board of Education and Toronto Board of Education. I guess what we're asking for is the same level playing field where everybody can compete and bid on the same things: fair wages, conditions and work opportunity on taxpayers' dollars. Thank you.

Mr. Pelissero: We're open for questions.

Mr Christopherson: Thank you for your presentation. Howdy, neighbour. This is the second time we've had this come up. It came up late yesterday and I think at first a few of us were confused as to how it related to Bill 136, but I think I understand your arguments better. I'm not sure I agree but I understand them. Can I ask this: you cite Metro, the Toronto Board of Education for the City of Windsor, the Toronto Board of Education, and I think one of you mentioned Scarborough as another one, that have adopted similar policies?

Mr Pelissero: You'll see in the attached brief, Freedom of Choice, we've given you examples of restrictive clauses in almost every sector of public sector funding. Whether it's a provincial agency from the Ministry of Housing, whether it's boards of education, whether it's a municipality or it's a publicly funded agency such as John mentioned in terms of Toronto Exhibition Place, all of those agencies have a form of a clause that states that unless you are in a contractual relationship with that particular union — Phil's employees are represented by a

different union, so he's discriminated against because they "happen to belong to the wrong union."

We think with respect to public dollars that the type of organization within a firm should not be a factor when you're bidding on a job. As you say, if the shoe was on the other foot and those same agencies said, "The only way you could bid was to be non-union," I'm sure there would be the will, if not people in the streets with a placard saying: "That's unfair. That shouldn't be a factor when you're bidding."

This is all we're saying. When you're going to be amalgamating a municipality and municipalities that don't have a restrictive clause and have an open tendering process with one that does, our job is to raise it as a concern to you and suggest that as a matter of fairness — the previous two speakers were talking about fairness — open-shop union contractors should be able to bid and perform the work.

Mr Christopherson: Correct me if I'm wrong. There seem to be two distinct issues, one being the question of the relative fairness of passing such a policy and then secondly the issue of spreading that policy out into communities as a result of amalgamation that hadn't passed their own. Is that correct?

Mr Pelissero: Correct. Dealing with the first one, I would be surprised if in the background work I've done any of those agencies freely entered into those collective agreements. Some of them, and if I had time we could probably give you half an hour behind each one, needless to say find themselves bound to a collective agreement, in terms of working and whom they can employ for a particular job. But they're unable to extricate themselves from that collective agreement as well, because as a public sector agency they're not a member of any employer bargaining group. So there's the conundrum with respect to restrictive clauses. Again, because it's an opportunity, if you're going to be looking at merging a municipality that has a restrictive clause with a municipality that doesn't, which is going to prevail?

Mr Christopherson: Just to stay with the former — and I appreciate your saying there are reasons why these things were enacted — however, having sat on our own regional and city council for five years, I can tell you that on every public issue there's pressure. Some of it can be arm-twisted right up your shoulder blade and other times it's just a polite phone call or a letter, and anything short of being illegal is part of the game, part of a pluralistic society. But let me ask you: If you feel that strongly that it's wrong, we have a Constitution and a Charter of Rights. Has it been challenged? Are you questioning the legality of such a policy?

Mr Besseling: Quite frankly, we're not allowed, as an association, to challenge. We would if we could but we can't. Only as an individual —

Mr Christopherson: As you know, I'm not a lawyer. Why is that?

Mr Pelissero: Let me explain that a little further. Under the Charter of Rights you would have to be an aggrieved party. The only aggrieved party would be an

employee of Phil's or an employee of John's. First of all, if there's a restrictive clause in place, most of the contractors, general contractors, subcontractors, don't bid. They haven't got the time and energy or money to prepare a bid to have it rejected. First of all they'd have to bid, have it rejected, and lay off someone as a direct result of losing that bid. Then there might be an opportunity for that to happen. I thought we had a bit of a solution from former Minister of Labour Bob Mackenzie when he identified very clearly, and I can leave you a copy of the letter, when public sector agencies under the construction section of the Labour Relations Act are deemed to be either employers or contractors.

A recent decision by the Ontario Labour Relations Board relating to a private sector matter between the Toronto-Dominion Bank and the Carpenters threw that a little bit into question. But we thought there was a solution there and we're still going to continue to pursue that. All we're saying is, from a fairness perspective, that if those same public sector agencies said the only way you could bid was to be non-union, then people would be working very hard to try and rectify that unfair situation. We're not making statements with respect to whether you should be unionized or whether you should be open shop. It shouldn't matter when you're tendering on a public sector job.

Mr Christopherson: I understand the point. Where you've got elected representatives within the law, within the Constitution, they have the right to make judgement calls. Where it's deemed to be beyond the Charter of Rights, then there are mechanisms. Again, I'm not a lawyer but I know it's not unusual — the usual way of challenging these sorts of things is to wait for your best test case. That's what everyone does on every side of an issue. When you think you've got your best test case, you plug it into the system and you take it all away.

Mr Pelissero: I can tell you in at least one of these cases the elected officials attempted to inject an element of fairness with respect to the tendering process and lost before the Ontario Labour Relations Board, which is an unelected body, took it to a lower Divisional Court and decided not to spend any more taxpayers' money in order to try to fight.

Mr Christopherson: Was it the TD case?

Mr Pelissero: No, it was the Board of Education for the City of Windsor. They find themselves bound by a collective agreement because they've hired an electrician. A business agent comes in and says, "Because you were the direct employer and you hired a card-carrying IBEW member, therefore all future work has to be done only, electrically, by IBEW." They said, "That's crazy." They took it to the Ontario Labour Relations Board and the board upheld that decision and said, "Yes, you have to do that." They took it to a lower Divisional Court and the lower Divisional Court upheld the Ontario Labour Relations Board. So there isn't a direct route to an elected official to say, "Let's talk about an element of fairness in this exercise."

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Mr Christopherson: Mind you, you can appeal the lower court decision.

Mr Pelissero: I guess the point is at what point in time, in terms of taxpayers' money, the board of education made the decision: "We're going to cut our losses. We're not prepared to spend hundreds of thousands of dollars which should really be a commonsense issue."

Mr Christopherson: Pardon the expression.

Mr Pelissero: "Pardon the expression"? Sorry, Yes.

The Chair: We'll move now to the government caucus.

Mr Maves: Welcome, gentlemen. I didn't mind the expression being used at all.

Is there something in Bill 136 which you believe will automatically make these clauses apply to the new entity?

Mr Pelissero: I think because it's silent; our concern is because there's silence. I don't know whether anyone within the ministry or the minister's office has thought about it. They may have, but it hasn't been addressed. Construction is a bit of a unique animal with respect to labour relations anyway. Because it's silent we just felt it was necessary to come forward and hopefully highlight it so that silence doesn't mean acquiescence, therefore, hopefully, it will be addressed.

Mr Maves: I think part of what Mr Christopherson was pursuing was that if Metro Toronto or a board of education or any other municipality is passing bylaws governing tenders or conditions —

Mr Pelissero: They're not passing bylaws. Once they become bound by a collective agreement, the verbiage that you see has to appear in all their tendering documents. This is why, in terms of launching a court case, most of our members would not bid on those jobs because they know they're going to be rejected. In terms of time, energy and money, to prepare a bid to have it rejected, there just isn't the opportunity or the dollars available to do that.

Mr Maves: So under current labour relations law, if I as a municipality use unionized electricians for a job, I'm bound forevermore to use —

Mr Pelissero: It depends. It's not a straight answer.

Mr Besseling: If the municipality were to hire IBEW electricians directly, they would be. If the municipality hires an electrical contractor who is the employer, then they are not. That goes back to our earlier comment about deeming the municipality an employer, or in actual fact a buyer of construction services. There's that distinction and that's where the problem is.

Mr Pelissero: I'll read into the record for you, and I'll leave you a copy for the clerk, a letter dated May 6, 1994. It's addressed to Hugh O'Neil, who was the MPP of Quinte at the time, who had raised on our behalf a question with the then minister, Bob Mackenzie, of this particular issue. I just want to take time to read two paragraphs and get it into the record. It says:

"The second type of situation can arise as a result of the following circumstances. Unionized employers in the industrial-commercial-institutional (ICI) sector of the construction industry are covered by legislation requiring

province-wide collective agreements. If a province-wide ICI agreement is to apply to institutions such as school boards or municipalities, both of the following conditions must hold: (1) a building trade union must have obtained bargaining rights for the construction work performed by the institution; and (2) that institution has to be acting as its own construction contractor by directly engaging employees to perform the construction work.

"Provided condition (1) in the previous paragraph is satisfied" — in other words, there's a collective agreement in place in the institution — "it is then important to note that the underlined phrase in the second point, 'acting as its own construction contractor,' namely, the critical issue becomes whether the institution is acting strictly as a construction purchaser, (ie an owner-client), or whether the board's actions make it a construction contractor. If the institution is acting as an owner-client (by taking an arm's-length approach to the actual carrying out of the construction work), then it is not likely to be considered a construction employer. In that instance, the ICI collective agreement does not apply to the institution for that project, and any subcontracting provisions in the ICI collective agreement would not be binding when the institution puts out that construction project to tender. On the other hand, if the institution decides to take a more direct hand in overseeing the project, eg, to the extent of engaging and supervising workers on the construction site, then the ICI collective agreement likely appears and any subcontracting clauses in that agreement would be applicable."

We thought this was great; this was fantastic, "The Minister of Labour, Bob Mackenzie, has given us an answer." We put out a press release. Unfortunately, no municipality or board of education that was bound by a collective agreement was prepared to take the risk that they would be challenged before the Ontario Labour Relations Board with respect to that interpretation. We've had a couple of lawyers who have said that basically whoever drafted this for the minister either knew what they were saying or they went a little too far in terms of providing an answer. We may be talking about a situation that doesn't exist if the Ontario Labour Relations Board or somebody within the Ministry of Labour were to rule that what then-Minister Bob Mackenzie said is still going to hold today.

If that's the case, no municipality or public sector agency ever again would act as in the first situation with respect to being an employer. They would always do the arm's-length transaction as being an owner-client and then they'd be free to accept tenders or bids from everyone. If that's the case, we'll go home now. We're not convinced that is 100% right and we'd like it in writing from the Ontario Labour Relations Board or the Minister of Labour or somebody to say that is in fact the case. I'll leave you copies of this letter.

Mr Maves: Coming here before the hearings on Bill 136, what fix do you think is possible through Bill 136?

Mr Pelissero: Take the minister's interpretation of May 1994 and apply it to the new scenario. If that's the case, then any public sector agency that's bound by a

collective agreement acting as an owner-client will not be bound by the collective agreement. Then, with respect to Mr Christopherson's point of view, it forces that public sector agency to make a conscious decision as to whether they're going to restrict who is allowed to bid on that job.

Mr Maves: Thank you very much.

The Chair: To the Liberal caucus.

Mr Patten: I wouldn't mind a copy of that, Harry, because I'm not sure I understood it all totally but I'm beginning to see the argument. As I mentioned, last night we had Dave McDonald from Kenaidan Contracting and Don Cameron of the Ontario General Contractors — I don't know if it's an association — who made this point, and in your presentation it sort of clarified things. What's the status at the provincial level at the moment? In other words, if you wanted to bid on a contract, some kind of job to build a building or whatever it was for the provincial government, would you have those same limitations?

Mr Besseling: No. The province has no restrictive clauses.

Mr Patten: That was my understanding, because I was Minister of Government Services at one point. We said, "Listen, any bona fide business that is geared to the particular task at hand is eligible," and we tried to encourage; we didn't ask whether they were unionized or not unionized. If you were, fine, we looked at what you offered, the basis of the RFP and that sort of thing.

I think you have an issue where most Ontarians would want to see any Canadian company, regardless, have a fair crack at business, especially knowing that it's business coming out of their tax pocket. The mechanism for it, as a non-lawyer I'm not sure. I suppose if you had a recommended amendment to the legislation ready at hand to put forward, then that could be tabled. If the government side readily appreciates your point of view — and I want you to know I do — then that might give you a greater probability of success.

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Mr Pelissero: Richard, if you look to the four pages — it's been handed out — particularly the second page where I've asterisked it, the minister then went through the scenarios and said the provincial government does not have restrictive clauses. We cited a situation with the Ministry of Housing. At that time the provincial government said: "We don't interfere with that. It's an arm's-length transaction to us. It's a public sector agency that's receiving tax dollars and they have a restrictive clause in place." That's wrong, and if you needed wording with respect to an amendment, I'd take the then minister's words and put them in the form of an amendment to the bill with respect to the tendering process.

Mr Patten: This is where you've started?

Mr Pelissero: That's correct. With respect to what Mr Maves was saying in terms of, where is it in the legislation? Well, it isn't. If we need to add to it with respect to tendering of construction projects, that would be a new section. Just take the verbiage from the then minister and maybe the same letter-writers who were at

the ministry may be there now today. Nothing really changes much; it's just the people at the top change. That might be an appropriate approach. Been there, done that, Madam Chair.

The Chair: I know.

Mr Patten: With the rearrangements, while the province has the overall authority for official plans and municipal affairs, as you can see, the municipalities will be less dependent, economically at least, on provincial funding. You can see that particular trend. Whether something would have to also be included in the Municipal Act in terms of areas of fairness — it seems to me a court ruling would be the fastest way. I'm surprised the labour relations board would carry weight. You showed this letter when you went to the Divisional Court?

Mr Pelissero: No, this letter came after what happened at the city of Windsor. We've been told informally that a private sector business attempted to use this argument before the labour relations board, and basically the labour relations board said the minister didn't know what he was talking about. We've been told that informally. So they didn't put a lot of stock in the minister's letter. We do in the sense that it makes eminent sense in the sense that if they're going to employ directly, then you're bound by the collective agreement. If you're not, that comes back to forcing the municipality or the public sector agency to make a determination with respect to whether they want fairness in the tendering process.

Mr Patten: You should have brought Bob Mackenzie with you today.

Mr Pelissero: He might not have been willing to appear with us. I'm not sure. But we appreciate the opportunity we've had to share this.

In another example, there is under the Ministry of Consumer and Commercial Relations the Discriminatory Business Practices Act, which does not allow you to discriminate based on geography. We've used that successfully with the board of education. We're attempting to implement a geography-restrictive clause in the sense that they were only going to entertain bids from contractors within that geographic area that had a mailing address there. When we pointed out that was contradictory to the act, the Ministry of Education said, "We're not going to flow dollars if you pass that particular clause."

Mr Patten: This sounds like it's going to hit about half a dozen ministries at some point. I appreciate your point and I agree with it.

Mr Pelissero: I think it's fixable.

Mr Patten: Yes, I think so too. We'll have to work on that one. Thank you very much.

The Chair: With that, gentlemen, we thank you very much. Yes, we know you've been around this. We can tell. You've got a very direct and forthright manner and we appreciate you and your colleagues taking the time to come before us this afternoon.

Mr Pelissero: Thank you for the opportunity.

Mr Christopherson: If we asked him questions, he would show us how well he could skate.

The Chair: Colleagues, we now move to the teleconferencing again, and we're back in Kincardine. It appears the first presenters we were expecting to hear from in Kincardine are unable to join us, so we're just checking to find out if the group from the Hamilton-Wentworth Health Coalition is present in Kincardine.

Mr Christopherson: Can I ask a question? Obviously this is a Hamilton group. Why would they have to drive all the way to Kincardine? They probably drove farther to Kincardine to be on cyberspace than if they'd driven to Queen's Park and made a presentation here in real life. If we don't know, I'll ask them, but I find it kind of curious.

The Chair: I'm sure on short notice there were a number of challenges in trying to fill the scheduling. Maybe the clerk has something to add to that.

Mr Christopherson: I thought the government said this is just the usual process. Why are we having so much trouble?

Mr Maves: It's a new process.

Mr Christopherson: So you're admitting finally it's an extraordinary process.

The Chair: I think it's fair to say this is a new process. I think we're all very clear about it. My understanding is we've only used teleconferencing once before, and that was in the justice committee.

Mr Christopherson: So you're talking about the teleconferencing is new.

The Chair: This is a new process —

Mr Christopherson: Let me remind you, Chair, so is the time frame a new process.

The Chair: There are a number of elements that are new, Mr Christopherson, and I know the clerk's office has been working hard to accommodate —

Mr Christopherson: None of this is an attack on them. They're working under incredible circumstances. It's the government that's got to answer for this.

The Chair: I think everyone's been trying to do their best. It's my impression —

Mr Christopherson: Everyone except the government.

The Chair: — is that we don't have presenters ready just yet from Kincardine, so my suggestion is we call a recess and reconvene at 5:20.

The committee recessed from 1656 to 1724.

HAMILTON-WENTWORTH HEALTH COALITION

The Chair: We are connecting again by way of teleconferencing to south Bruce. We now have representatives from the Hamilton-Wentworth Health Coalition. We're very pleased to welcome you before the committee this afternoon.

Ms Brenda Johnson: My name is Brenda Johnson and sitting here with me is Joanne Webb. We're here representing the Hamilton-Wentworth Health Coalition

The Hamilton-Wentworth Health Coalition is a partner of the Ontario Health Coalition. We're made up of community organizations, local unions and individuals. We are non-profit and non-partisan. The Ontario Health

Coalition is composed of 80 member groups, including seniors, women, low-income and homeless people, aboriginal people's organizations, ethnic and multiracial minorities, unions, service providers, psychiatric survivors' groups, people with HIV/AIDS and many others.

The Ontario Health Coalition is linked as the provincial component to the Canadian Health Coalition and provides provincial coordination of community-based health coalitions such as ourselves.

The primary goal is to empower the members of our constituent organizations to become actively engaged in the making of public policy on matters related to health care and healthy communities. We seek to provide member organizations and the broader public with on-going information about their health care system and its programs and services.

Through public education and support for public debate, we contribute to the maintenance of a system of checks and balances essential to caring communities and a democratic society. The development of local coalitions within a province-wide network assists communities to work in cooperation with those in other parts of the province to share resources and information and to work independently on their own issues.

We are committed to maintaining and enhancing our publicly funded, publicly administered health care system and we believe that the principles of the Canada Health Act must be honoured and strengthened.

We would like to thank the committee for the opportunity to present to you today. However, we also wish to voice our outrage at the process.

First, it is understood that the Minister of Labour has apparently made several amendments to this legislation which we have had no opportunity to see or review. While we may very well support these amendments, we find it very frustrating and confusing to be presenting on proposed legislation which we have had no opportunity to review and evaluate. Therefore, we are demanding that we be given a further opportunity to present on the amended bill when we've had the opportunity to review it.

As we understand the schedule, the Legislature will begin clause-by-clause reading of the amended Bill 136 on Monday, September 29. Prior to this date, no one will actually have the opportunity to see the amendments. The Legislature could, we understand, pass this bill as early as Wednesday, October 1. This is totally unacceptable.

Second, this government has promised province-wide hearings. This has not been the case. We are here today presenting by teleconference from Kincardine. We had to drive for four and a half hours to present here when we were 40 minutes from you in Toronto. Is this province-wide hearings, for organizations such as ourselves to drive halfway across the province to appear to represent that geographic area? Full province-wide hearings with preparation time and a copy of the actual legislation being proposed are essential if this government really has any intention of hearing from the people of Ontario.

Bill 136 is a major blow for patient care. The Harris government claims this bill is necessary to assist public

sector employers dealing with staffing issues that result from mergers of hospitals and school boards and the downloading of provincial services on to municipalities, and that it will ensure public services are not disrupted during restructuring. In addition, we are told Bill 136 will increase levels of efficiency even though funding levels will continue to decrease.

Our view is the opposite: Bill 136 is really an attempt to decrease wages and benefit levels of staff upon whom the public rely and to overload those remaining with even more responsibilities. We currently have the best-qualified, committed health care workers in this province. Our health care workers average only \$28,000 a year, including benefits. This makes them among the lowest-paid employees. This bill would say that they are overpaid? Over the last five years, we have seen a reduction of 20% in staffing levels in the health care system. We are already seeing the effects of those cuts. Bill 136 will only lead to even worse care in public hospitals and facilities and longer waits for those of us who need crucial access to those health services.

1730

We must also remember that we have yet to see all the devastating effects of the restructuring commission's decisions to close and merge hospitals, the downloading, decreased funding levels. How can we continue to cut without stopping to see where we are, what these actions have already cost us in health services and in lives?

Our health care workers are also 90% female. It makes me as a woman very angry that this government is directly attacking the women of this province. Not only is this legislation going to put many women out of a job, but those who remain will have significantly lower wages and fewer, if any, benefits. Add to that the fact that women are still the main family caregivers, and the downloading of so many health care services on to the families will have devastating impacts on women's lives and their families.

In addition, the concerns around day care: This is again mainly a concern and responsibility of women. How can someone earning \$7 or \$8 an hour afford good day care for their children? How can a woman work and look after ill loved ones and have to worry about the care her children are receiving?

We are also likely to see standards of patient care drop even further as unions become increasingly muzzled in dealing with vital patient issues such as staffing levels, the availability of appropriate equipment, and health and safety standards in these institutions.

For those who cherish a quality public health system, this proposed legislation will smooth the transfer of huge sections of public services to the private sector. Privatization is a major concern of the Hamilton-Wentworth Health Coalition. Privatization also means less accountability, less choice, less input, less standards and higher costs. It also means health care will be a business, an industry. In Hamilton, we used to have five acute care hospitals; now we have two. Four hospitals have now been merged into the Hamilton Health Science Corp. They will not even be called a hospital. The CEO insists on it being referred to

as "the corporation." This is the current picture of health care. It will only worsen under this legislation and the present direction of the government of this province. The privatization of our public sector and the reduction of the quality of health care and the quality of life was not the mandate given to this government.

This bill has far-reaching implications for all patients and consumers of health services. The one-sided interference, arbitrariness and lack of an impartial due process should be of concern to all citizens who favour democratic rights and basic fairness as the government attempts to silence the most vigorous voices in defence of public health care.

The purpose clause of Bill 136 is also of concern to the Hamilton-Wentworth Health Coalition. The purpose clause states "to encourage best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers." "Best practices" compares the wages and working conditions of health care and other public sector workers with the wages and working conditions of workers who do not have adequate wages and benefits. As stated earlier, health care workers are already some of our lowest-paid workers. They are also highly qualified to do their jobs and committed to providing the best patient care. We know these qualifications and commitments will not be there when unqualified, low-paid, stressed, worried and overloaded workers are put into these jobs as the areas are privatized.

"Best practices" has also been used to compare costs of services in one workplace with the cost of services in another workplace. Money should not be the overriding factor for change. Cheaper is not better.

I have heard it said that this is an anti-union bill. This is not just an anti-union bill. This is an anti-worker bill. It's an anti-women bill. This bill is an anti-consumer bill and it's certainly an anti-democracy bill.

While the Hamilton-Wentworth Health Coalition is largely concerned with the hospital sector, we cannot ignore the other effects Bill 136 will have on the health of our communities. Privatization of the public sector will affect our drinking water, highways, environmental monitoring stations, ambulance services, firefighters, police services, detention centres, sanitation, transit and many other areas. All of these affect our health.

The Hamilton-Wentworth Health Coalition believes that social and economic issues are health issues. Full employment at decent wages, housing, a strong social safety net, a healthy diet, a clean environment and safe workplaces are all necessary to ensure good health. All of these will suffer severely under Bill 136.

In conclusion, we feel that Bill 136 is an attack on everyone in this province. This bill should not be amended. We demand that it be withdrawn. I would like to state again that I find this process just — there are no words for me right now to say how I feel about sitting here and looking at almost all empty chairs. I just feel that on such an important issue as this there should be people sitting at that table listening. We're speaking on behalf of

many members of the community and they deserve to be heard. Thank you.

The Chair: Thank you very much. I can only say to you that while we aren't in the same room, we have been listening very carefully to what you've been saying. You have left us plenty of time for questions. We'll begin with the government caucus, with about six minutes per caucus.

Mr Dan Newman (Scarborough Centre): Good afternoon. I would like to begin my questions to you by asking the Hamilton health coalition, what were your views or opinions on Bill 136 prior to the minister's announcement last week?

Ms Johnson: I believe I speak for both of us when I say it's extremely large legislation and very difficult to understand. But our immediate thought was that it needs to be withdrawn, that it's totally unacceptable legislation. We shouldn't even be here talking about amendments. It just needs to be totally thrown out.

Mr Newman: So you're totally against Bill 136.

Ms Johnson: That's right, we're totally against Bill 136.

Mr Newman: What are your views or the views of your coalition with respect to amalgamations of school boards, municipalities and hospitals in general?

Ms Johnson: We believe that no hospital should be closed. We believe that there are negotiations and proper methods to sit and deal with the issues around restructuring.

Mr Newman: So amalgamations are possible?

Ms Johnson: We would have to actually sit and see, actually have that scenario. I'm not comfortable saying yes or no on that question without more information.

Ms Joanne Webb: We also believe that all Canadians should participate in health care decision-making, that we should be heard, and we're not being heard. We do not believe that the public and communities are being heard at this time.

Mr Newman: The reason I asked the question is that yesterday we had a presentation from the Ontario Hospital Association and they used an example from your community of Hamilton. I'm going to quote from their presentation to you, so I'm reading directly from their presentation:

"In November 1996, the Hamilton Civic Hospital merged with Chedoke-McMaster Hospitals. Where program changes are concerned, the merger is still in the implementation phase. However, the Canadian Union of Public Employees has made its position clear that its members, service and other employees at the Civic and the Chedoke site have first priority on any jobs available at the new hospital after restructuring.

"The problem in this instance is that the service workers at the McMaster site are not represented by a union. If the Ontario Labour Relations Board does not protect the interests of non-unionized employees in such circumstances, CUPE would be in a position where it can simply refuse to consider any position which balances the interests of all of the employees."

1740

So we have a situation in your community where the Ontario Hospital Association says Bill 136 or its equivalent is needed. Can I have your thoughts on that specific situation, the thoughts of the Hamilton health coalition? I think it's a fair question.

Ms Johnson: That's something I feel could certainly be dealt with in discussions with those involved. I don't think we need a bill such as 136 that's going to affect an entire province to deal with those issues. If you have the right arbitrator who can sit down with those groups, I don't feel there's probably any reason for such a bill. I think it could certainly be dealt with. The opportunity should certainly be presented for that.

Ms Webb: In the past we certainly have been able to negotiate programs and decisions between the unions and the hospitals on our own. Why now do we have to have the government telling us how we are supposed to do that process? We already have a process.

Mr. Newman: The reason I ask is that they go on to give a second example. In 1986 the Toronto Hospital was formed through the merger of Toronto Western and Toronto General. "Eleven years later, the hospital has finally reached an agreement with the Ontario Nurses Association to combine the seniority lists of its bargaining units at the two sites, with one restriction. However, CUPE" — the Canadian Union of Public Employees — "still refuses to combine its bargaining units."

In other words, if a carpenter was needed at the Western site, they couldn't take a carpenter from the old TGH site. They had to go and hire another carpenter, because the carpenters weren't allowed to go between the two sites. There's an example that 11 years down the road they still had not been able to resolve those differences. People are telling us that some sort of legislation is needed, as has happened in other provinces. I believe Saskatchewan and PEI and another province which I can't recall right now — BC — have had legislation in place for hospitals to deal with those types of issues through restructuring.

Mr Patten: Thank you for your presentation. Just briefly, your coalition is made up of which employees?

Ms Johnson: It's a coalition of many different member groups. We have several community groups. We also are made up of several unions. We have CUPE, OPSEU, CAW, Steelworkers, SEIU, ONA and UFCW.

Mr Patten: I just wanted to get a bit of a feel for who makes up your body.

Did you have a chance to hear about the OHA's release today on the impact of the existing cuts to hospitals, and in particular the CIBC report? I haven't read the complete report other than what was reported in the House today. It showed a significant impact upon quality of care with some of the kinds of pressures that you identified before, Brenda, on workers and the cuts to staff and the increase in stress and things of that nature. Did you get a chance to hear about that today? There was another firm that did it. These are independent reports that the Ontario Hospital Association asked be done.

Ms Johnson: Unfortunately, no, we have not had a chance to see that report. We have actually been on the road since noon today on our way here.

Ms Webb: I can tell you from my own personal — I am a hospital worker and I've seen cutbacks in the hospital. Yes, we are overworked. There have been cutbacks going on in these hospitals for five years, and there are people who were doing one job and now are doing two and three jobs, and in shorter times. Their times have been cut back to part-time employment and they're doing more work. Yes, they are overworked. This bill will leave it open to privatization, and getting cheaper workers is not going to make them do less work. They are going to be doing more work at cheaper —

Mr Patten: I understand. I receive calls and letters in my own office saying the same sort of thing, and also some of my ex-colleagues, because I had some affiliation with a children's hospital in the Ottawa area.

We had asked — as a matter of fact I'd personally asked the minister in the House — if she would consider withdrawing the bill on the supposition that it was so affected by her statement of what would be addressed and the changes to be addressed were so fundamental to the bill that it really warranted, at least in my opinion, and I think others may share it, withdrawing Bill 136 and redrafting a piece of legislation that everybody could see before hearings, or before we got into finalization of a bill. However, she chose to not accept my wise advice and we're here now listening to amendments to this particular bill without the amendments from the government. As you had said yourself, we won't see those.

By the way, once those amendments are submitted by 10 o'clock next Monday, we will not have any chance to discuss them. And those amendments are not amendable. In other words, let's say the government, for the sake of argument, puts forward something that you know might be a reasonable amendment but we have some problems with it and we think we can ameliorate it and improve it, the government side cannot even entertain an amendment to what they propose, which shows you how tight this process is. I think that's undemocratic and is not in the spirit of how hearings and committees should be able to operate. Usually they don't operate on this basis. This is a special case of time allocation that the government has imposed.

You identified a whole variety of areas that you said were an attack on women, and we'd have to agree with the concerns around day care workers. The pay equity section is up for grabs because the minister said she's not sure which way she's going to go now because of the court ruling. There's the worry about the privatization, the statement in the purpose portion of the bill which talks about best practices and ability to pay, and those kinds of things. We agree that at the end of the day, looking at it from your point of view, or anyone's, when you look at it from the point of view of working women and lower-paid working women, this is certainly not supportive at best and, you might say, easily interpreted as an attack, which is most unfortunate.

Ms Johnson: I think there is really nothing of any benefit that we can see in the bill. As you have said, something as important as this, that's affecting so many people, certainly deserves much more time. The public needs to see, as you said, what the amendments are, what exactly we're here to talk about. We can sit here and talk all day but we don't know what we're talking about until we see those amendments on Monday and have the time to really look at them and how they translate into reality.

Mr Christopherson: I want to pick up a bit on a couple of things you've raised so we can expand on them. Number one, I want you to know that this whole nonsense of you having to drive all that way up there to sit in a stark room and stare at a TV camera was solely the idea of the government. This is their version, just to have you know —

Mr Maves: It's not true. It's partly scheduling that's —

Mr Christopherson: The whole concept, the whole part of the process of doing the teleconferencing was your idea. The opposition parties rejected it. Your minister made a promise that she'd travel the province and she broke that promise. This whole teleconferencing thing was your idea to try and cover up the fact that you broke your promise and refused to go out on the road.

Mr Maves: You make it sound like we're making them drive.

The Chair: Order.

Mr Christopherson: I've said before and I'll say it again: You're a bunch of cowards. You're afraid to go out and face people. That's why you're here. You're here nice and safe and quiet.

Mr Maves: What were you on the social contract? Oh, you don't like to talk about that.

The Chair: Colleagues, order, please.

Mr Christopherson: You've got all your guards. You don't have to face the public. The fact of the matter is —

The Chair: Excuse me, Mr Christopherson. One moment, please. Colleagues, I must remind you that because we are undertaking teleconferencing the voices don't travel if one is going over another. We can only allow one person to speak at a time and Mr Christopherson has the floor.

1750

Mr Christopherson: Thank you, Chair. This process was the government's idea, and so was the teleconferencing. I want to be very clear that this is not our idea of travelling the province and giving people a chance to look their lawmakers in the eye and make presentations. I find it absolutely ludicrous that people from a major urban centre like ours in Hamilton would have to drive three times the distance to go on a teleconferencing system, rather than just coming here to Toronto if we couldn't hold hearings in Hamilton, which is the way it ought to have been in the first place.

Secondly, in terms of process, you should know that the details — it's as bad as you think and worse. We wrap up these hearings tomorrow at 5 o'clock in the afternoon. By Monday morning at 10 o'clock we have to have our

amendments in. We get the final research report from our researchers, who compile all the presentations that have been made to us, at 9 o'clock Monday morning, and by 10 o'clock we have to have our amendments in, in legalese.

I'll also say, when you talk about not knowing what you're talking about in terms of not seeing the legislation, we have government backbenchers here who don't even know what they're defending either, because all we've got is words from the minister; we have no amendments.

I liked your idea. You're the first one to put it quite that starkly, Brenda, to say that the government ought to give us a chance to have input into the amended bill because there are so many changes to the existing 136. I want to ask the parliamentary assistant, through the Chair, if his government is open to allowing people to have input on the amended 136.

The Chair: Mr Maves?

Mr Maves: What's his question? I didn't hear that.

The Chair: Do you want to ask that after we finish questioning the presenters?

Mr Christopherson: I think they want to hear it. This is a sham hearing anyway, and you know it, Bart. I think this is a question they'd like to ask you. They raised it. You haven't addressed it yet and I want to give you a chance. Are you prepared to allow people to make submissions to your amended Bill 136, given that you're completely gutting it and rewriting it?

Mr Maves: No, the time allocation motion doesn't allow for hearings after the amendments.

Mr Christopherson: There you go, see? He hides behind a motion that they rammed through with their majority. That's why they can't do it. This whole thing is a sham.

The Chair: Mr Christopherson, do you have questions for the presenters?

Mr Christopherson: I think I'm facilitating the presenters when I ask the parliamentary assistant key questions that they've raised.

I also want to mention that one of the biggest threats facing us in Hamilton right now is the possibility of losing one or maybe two hospitals as a result of the health restructuring commission report. Please comment on that. Let people know what's happening in Hamilton in terms of how people feel about the idea of losing St Joe's or Henderson or Chedoke-McMaster.

Ms Johnson: People are just devastated at the fact that we could be losing one of our hospitals. Like everywhere, we already have long waiting lines. There's concern about the emergency situation and where you can go to get acute care. We've recently lost the maternity at one of our hospitals already, before that commission has even sent a report. That's already creating problems for women in where they're going to go to deliver their babies, what doctor works in what hospital.

Everybody's on edge waiting for a decision. What is that going to mean? What about the families? Are they going to have a right to go to the hospital they choose? We have a Catholic hospital, and there are issues around that. It's just incredible. You put that all together with the

funding cuts and it's a very difficult time. People have a lot of concerns about the services and where those services will be located, the type of health care. If one of those hospitals closes, that's going to have a tremendous impact on the community.

Ms Webb: I just want to add, on the movement of the maternity from Henderson to McMaster, that we had a very efficient system up there of ordering blood work, of doing everything. From people I've talked to who have moved over there with the program, they've gone back to a system they were using 15 years ago. How is that efficient? How is that saving money? It's totally outrageous.

I just get mad at this whole system. They're telling us we're supposed to be saving money, and as health care workers we do not see the savings. We've asked over and over again to be part of the decision-making, and we never are. We're left out. The only people who are going to be hurt are people like me and her and anybody else who goes into a hospital. My sister, my brothers, my grandchildren, my parents, that's who's losing — the people of Ontario.

Ms Johnson: I'd also like to comment on a few other things you said, Dave, regarding the question of whether or not we'll be allowed to present again when we've seen the amended bill. I feel like we've driven all this way and we've never actually had the opportunity to present on behalf of the coalition, because we're really presenting on a phantom bill that we've never seen.

We know there are many amendments. We're active with the health coalition, but we haven't had the opportunity, through the unions, to see those amendments. We have no idea. We've heard what the media are presenting about the right to strike, but on many issues on the impact of that bill we're totally in the dark about what those amendments are. Again, we can only demand that opportunity on behalf of all the members represented by our coalition. This is going to severely affect our health and our lives, and we in a democratic society certainly have some right to know that legislation and to speak on it and be aware of the issues before it's passed like that. That's just incredible.

Joanne and I were wondering if maybe the promise to hold province-wide hearings was that the presenters should be province-wide, because we certainly feel like we have seen this province this afternoon.

Mr Christopherson: Don't offer them any suggestions; they'll use them. Thank you very much for all your efforts. We'll do everything we can to carry your message at this end.

The Chair: On behalf of the members of the committee, we thank you for coming before us this afternoon. I want to tell you there are seven members of the Legislature here listening to you and about 14 or 15 people in the room. We have been listening intently. We appreciate your efforts and we thank you on behalf of the Legislature for coming before us this afternoon.

Ms Johnson: Again, though, we would like the opportunity to speak on the amendments.

The Chair: We understand. Thank you. Bye for now. Colleagues, that's our final presenter this afternoon, so we'll recess and reconvene this evening at 7 o'clock.
The committee recessed from 1758 to 1900.

THUNDER BAY AND DISTRICT LABOUR COUNCIL

The Chair: We begin with our first presenter this evening, Evelina Pan, representing the Thunder Bay and District Labour Council. Evelina is joining us from Thunder Bay by way of teleconferencing. Evelina, good evening. Can you hear me and see us?

Ms Evelina Pan: Yes, I can hear and I can see. I must tell you that this is the first time I've ever done this. It'll be an experience.

The Chair: It looks very good from here. Just to let you know, there are probably about 14 or 15 people in this room. There are eight members of the Legislature here listening to you.

Mr Christopherson: How many members of the public?

The Chair: I can't determine that.

Mr Christopherson: None. Be honest.

The Chair: I'm not sure —

Ms Pan: Were the public invited?

The Chair: The standing committee hearings are open to the public, yes.

Ms Pan: Were the public in Thunder Bay informed?

Mr Christopherson: No.

The Chair: We don't invite members of the public to the standing committees, but they are open to the public. This will also be televised, so that you know. Anyway, we're going to get under way. As I'm sure you know, you have 30 minutes for your presentation time. You may use all that time for presentation or you may allow time for questions. Again, welcome, and please begin.

Ms Pan: I appreciate the opportunity to make this presentation here tonight, which I'm doing as president of the Thunder Bay and District Labour Council. While we appreciate the opportunity to make our views known, we really strongly protest the lack of notice given for these hearings here in Thunder Bay. It's absolutely frightening to think that the government of the largest province in this country is so incapable of even the simplest planning chores that it cannot give groups more than a day's notice of hearings on an issue so important to the future of our province. It's shameful. It's truly shameful.

That's probably one of the most obvious flaws of the Harris Tory government, that there is no thought given to the ramifications of government actions. The government says it wants to hear from the people of Ontario, and yet it crams two days of legislative work into one calendar day, which has the effect of limiting debate by the elected members of Parliament. Then it tries to stifle the true voice of the province by scheduling hearings on Bill 136 for a measly four days, and exclusively in Toronto. Only because of massive public pressure are hearings being held outside of Toronto, but with no lead time for

deputations to properly prepare a response to one of the most dangerous pieces of legislation to hit the floor of any Legislature in Canada.

This is a government that doesn't bother to hide its contempt for the men and women who devote their working lives and volunteer time to improve the quality of life for everyone in the province. Remember that. We want you to know that whatever amount of contempt the Premier and his cronies hold us in, growing numbers of people in Ontario are seeing more clearly as the days go by how vicious and how anti-human the Harris Tory government is. And believe me, we will remember.

We've had Tory governments before. Bill Davis's government was Tory, but obviously not spiteful enough for Mike Harris, because within months of taking office they repealed legislation that was introduced by the Bill Davis government, some of which dated back more than 20 years.

We've had Liberal governments, for example, under David Peterson. While we in the labour and the social justice movements had our differences with their government as well, we still recognize and appreciate that they were the ones who brought in pay equity legislation, which Bill 136 will destroy.

And we had an NDP government under Bob Rae which brought in some legislation beneficial to workers, but which also brought us the infamous social contract, which I believe is the toe in the door to the inhumane and devastating changes that this pathetic excuse of a government is busy imposing on the people of Ontario, starting with the weakest and the most vulnerable — mothers on social assistance — continuing along with workers who have been injured on the job, and now attacking people working in the broader public sector. That includes people such as teachers, firefighters and police.

Bill 136 will create chaos in the province. The closing of dozens of hospitals across the province and the forced merger of many others, the unwanted amalgamation of cities and school boards, and the cutting and downloading of provincial services can only generate massive disruption. The accompanying job loss and service cuts can only breed frustration and conflict.

The Dispute Resolution Commission and the Labour Relations Transition Commission will be made up of whom? People appointed by cabinet. And to whom would they be responsible, to whom would they be accountable? No one but their masters, the Harris government. Cute, isn't it?

In spite of some of the amendments proposed in the House last Thursday by Minister of Labour Elizabeth Witmer, the employer's ability to pay still remains part of Bill 136. Over the years, impartial arbitrators have ruled that employer ability to pay cannot be a consideration, and yet this government thumbs its nose at the collective wisdom of jurisprudence and case law in this province. The commissioners for both of those commissions will have sweeping arbitrary powers which violate any pretence of due process. Some of the powers include the

ability to limit witnesses, to hold or to not hold a hearing, to require written submissions, to set the length of both oral and written submissions, to stop one side in the dispute from access to information that it thinks it should have, and to decide other matters that it deems necessary. We could go on.

It even has the right to set its own policies governing dispute settlements regardless of the positions of the parties to the dispute. Its decisions can impact every collective agreement in the province, whether or not the parties are even in collective bargaining negotiations at the very time that the commission makes its decision. Employers can use the Labour Relations Transition Commission, but unions can't oppose this, and unions can't appeal their rulings no matter how biased they may be. Let me just remind you that with cabinet appointees determining our future, the rulings aren't likely to be in our favour.

Should Bill 136 be passed as initially drafted, people working in the broader public sector in Ontario would have no right to free collective bargaining, no right to a hearing, no right to a representative at hearing, no right to hear employers' evidence, no right to counter employers' evidence, no say in the method of dispute resolution and no right of appeal. Very democratic.

The cities of Port Arthur and Fort William amalgamated in 1970 to form the city of Thunder Bay. We didn't need those kinds of draconian measures to come up with a resolution on the structure of the new city of Thunder Bay, so why introduce Bill 136?

It's clear that the prime reasons for introducing this piece of legislation are (1) to pay for the Harris government's tax cut for wealthy Ontarians on the backs of those who can least afford it; (2) to prepare for the massive privatization of the public sector; (3) to create a downsized, low-wage broader public sector which will function to drag down private sector wages; (4) to attack the democratic rights of working people and their unions which stand against the government's policies and which are able to actively mobilize against them.

I'm quite certain that I speak for the entire labour movement in outlining the Thunder Bay and District Labour Council's position to Bill 136. We're not rejecting this bill just because we're ornery folks or just because we want to be critical, because we do have a positive alternative.

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Restructuring has taken place in Ontario and other provinces across the country through free collective bargaining. Free collective bargaining and democratic political activities are the only fair and effective ways of resolving restructuring issues in the workplace. Ontario's broader public sector employees and the unions which represent them believe there are alternatives to Bill 136 which would preserve fundamental rights, protect democratic principles and safeguard the fairness and integrity of the arbitration and adjudication process. Some of these alternatives would include:

(1) Preserving free collective bargaining for employees affected by broader public sector restructuring. Free collective bargaining has proven over the decades to be the only fair and effective way of resolving issues arising from both public and private sector restructuring.

(2) Maintaining the right to strike and, for workers in essential services, preserving independent and impartial — not government appointment, but independent and impartial — arbitration instead of imposing unfair criteria through a government-controlled and one-sided Dispute Resolution Commission.

(3) Ensuring that recognized labour relations principles and the democratic rights of all employees, and the trade unions which represent them, are preserved in the determination of any new bargaining unit structures or bargaining agents, and in the continued application of collective agreements.

(4) Providing the Ontario Labour Relations Board with additional authority if necessary to determine transitional bargaining unit and bargaining agent issues arising from the restructuring rather than creating another body which has no credibility and no legitimacy. This may require providing the labour relations board with additional authority to make the necessary determinations concerning bargaining units and bargaining rights and security. However, this is far preferable to establishing an entirely new body to replace the Ontario Labour Relations Board, which has decades of experience and acceptance in dealing with successor rights issues.

(5) Ensuring that employee and trade union rights are determined only through adjudicative processes which are independent, democratic, fair and open.

(6) Treating broader public sector workers in our province with no less favour than the government has already shown Ontario's doctors. We're all the same. We have a service which we provide to the people of Ontario.

We greeted with interest Labour Minister Witmer's remarks at Queen's Park last Thursday afternoon and we await with great anticipation the actual amendments to Bill 136, because when we consider the track record of this government's lies, lies and more lies, we can't accept her words. We need proof.

We need proof that the government is serious in its desire to respect the minimum standards of dignity for those who would be affected by Bill 136, and also for those who would be affected by Bill 160, the Education Quality Improvement Act, which is the legislation for the teachers, and that the government doesn't intend to tamper with the right that workers have achieved through generations of struggle to collectively negotiate a fair and equitable agreement with their employers. You can rest assured that we will not take such attacks lying down. You can rest assured that the kind of situation that arose at PC Globe in Scarborough, where the workers took over the plant a few weeks ago, that kind of activity, will be repeated in other parts of the province as workers feel more helpless and more insecure in their jobs.

You are no doubt aware that public sector workers around the province are gearing up for job action. You

have to be aware also that many of these workers have never taken part in any kind of demonstration before. These people are voting in large numbers and by large majorities to support whatever measures are necessary to put an end to the cruelties and inhumanities inflicted by the Harris Tory government on the people of Ontario.

While we recognize that the Minister of Labour has tried to soften the full force of the blow of Bill 136 by saying that the right to strike for first collective agreements following amalgamation or restructuring will be maintained, while she tries to tell us that the current independent and impartial arbitration process will continue as we have known it and that references to the Dispute Resolution Commission and the Labour Relations Transition Commission will be removed and the Ontario Labour Relations Board will be continuing to function and that the choice of union representation would be determined by democratic secret ballot, there are still many parts of the bill that would remain.

For example, consolidation of a number of different bargaining unit disputes: How can disputes, however similar they may appear to an uninformed outsider, be scheduled satisfactorily when the specifics could be so different? How can affordability be a consideration when it's the province that holds the purse-strings? How can this government, at the drop of a hat, terminate all interest arbitration proceedings which are ongoing, with limited exceptions, and provide any decisions rendered in those proceedings void? What about the people affected? What about increasing the number of firefighters excluded from their bargaining units? What about public safety? What about the people who provide home day care as defined in the Day Nurseries Act? How can they, at the stroke of a pen, be suddenly deemed not to be employees? What about pay equity? Why should the sale of a workplace to a for-profit purchaser result in the cancellation of a pay equity plan?

As you can imagine, we can go on, but we'll close our submission at this point by telling you that when the labour council went to city council on Monday this week, we went there asking that city council support a resolution asking the provincial government to withdraw Bill 136, and they did. They passed it unanimously. They unanimously passed a resolution that supported the AMO resolution at their conference a few weeks ago, for which the resolved reads, "Therefore be it resolved that AMO," the Association of Municipalities of Ontario, "urge the provincial government to withdraw Bill 136, the Public Sector Transition Stability Act, until such time as dialogue has taken place between the provincial government, labour unions and AMO." We haven't seen such dialogue yet. We haven't been invited. We know that other municipal councils and school boards have passed similar resolutions.

Let me just finish by saying one more sentence: Let the government of Ontario act responsibly for once and withdraw this bill.

Mr Patten: Thank you very much, Ms Pan.

Ms Pan: It would be nice to see you.

Mr Patten: Well, it's not up to me; it's up to the technicians who are managing this.

I found it interesting that your city council supported the previous AMO resolution that the new president of AMO continues to somewhat downplay and minimize. Anyway, it's significant that your council has passed such a resolution and I believe there are, as you say, other councils that will do the same because they recognize that it's not wise to bargain in an atmosphere of continued mistrust. I think unfortunately that is exactly what may happen.

The minister made some statements here at the opening of the hearings on Tuesday. I wonder if you've had a chance to either receive a transcript of that or receive a copy of her comments, following her comments last Thursday in the House.

Ms Pan: I'm sorry. I wish we had, but we haven't, or I haven't in any case. I haven't seen anything.

Mr Patten: You touched on a number of parts of the existing bill prior to the minister's statements that she would address or the government would address certain important areas that essentially were in the OFL document. But as you say, we don't have the amendments before us and we won't see them until they are submitted, and when they are submitted we won't have a chance to react to them and even amend those because of the motion for time allocation from the government. That's most unfortunate. So it leaves at least a significant degree of cynicism.

Certainly as I've looked at the details of what the minister said last Tuesday, I suspect that what she's doing is doing away with the two commissions but imposing on the labour board and the other boards that manage the police or the firefighters' negotiations the same criteria, the same functions, the same responsibilities that in the first instance many people disagreed with. So I think especially when the major unions see this, they're not going to be very happy and we may be in the same ball game we were in two weeks ago. Do you have any reaction to that?

Ms Pan: I appreciate that you've just updated us on what's been going on down in Toronto. I'm absolutely dismayed, I'm outraged, but I'm not in the least bit surprised, as you can imagine, at what you've just said to us. This is a government that knows what to say, but this is a government that's not prepared to listen to anybody other than their own friends, their pollsters and their backers. This is a government that doesn't want to know what I have to say. This is a government that's not interested in what my friends here with me at the table tonight have to say. You're going to hear us, but I don't know if they're going to listen; I don't know if they're going to take any of it into consideration.

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It's very sad because this is a government that was elected by 39% of the people in this province. It's not an overwhelming majority. Even if we round 39% to 40% and 40% to 50%, it's still not exactly a majority, is it? So I'm not exactly sure what right they're governing by, other

than they got more than anybody else, but they're certainly not governing in terms of representing people.

They're not representing any of the folks I represent as president of the labour council. They're certainly not looking after the best interests of single mothers on social assistance or people in general who are living in poverty. They're not looking after the interests of people who work for the public sector. They're not looking after the interests of people in the communities at large, because whatever services public sector employees provide are services which are needed, which are used, which are enjoyed and appreciated by the community. This is a government that really doesn't seem to care.

Mr Patten: When the government members ask you some questions, you might want to ask them. I've made that statement about 10 times now and there's been no dispute on the government side saying I'm incorrect, and I'd like to be incorrect because I'd like to believe the minister.

Ms Pan: And so would I.

Mr Patten: Based on the details of what she said, I find it difficult to do so, but nobody's contradicted me at this stage. Second, you said there could be some additional powers given to the OLRB. In your opinion, what do you think those additional powers could be to deal with this transitional phase?

Ms Pan: I'm not exactly sure how the OLRB should be changed, except that it seems to me the powers they currently have would be sufficient to look after the transition, because we've had transitions already.

In Thunder Bay you might be aware that they've closed a number of our acute care hospitals; they're about to close a psychiatric hospital; they're closing chronic care hospitals as well. We've had to do the amalgamation and we've had to do the coming together. When they set up Thunder Bay Regional Hospital and closed the Port Arthur general, they took away the name of Port Arthur general and they took away the name of the McKellar hospital and made it into Thunder Bay Regional Hospital with a McKellar campus and a Port Arthur general campus.

There had to be a vote among the people who worked there to determine which bargaining agent was going to be their bargaining agent. There were campaigns and a vote was taken. There is one bargaining agent for the clerical employees, there's another bargaining agent for the service employees, and the nurses still have theirs. We can do it.

When Fort William and Port Arthur, as I said earlier in the brief, amalgamated and formed the city of Thunder Bay, we did it. We didn't need any of these garbage issues the government is trying to throw in our face. We don't need that. We can do it. Where there's a will, there's a way. This is the very essence of collective bargaining. Once I have a position and the other side has a position and together, collectively, come to a conclusion, come to a resolution, it's easy. It's done all the time. We can do it. We don't need this draconian legislation to force us. We

don't need to be beaten up by this government. We certainly don't want it.

Mr Christopherson: Thank you very much for your presentation; I appreciate it. First, you should know that the resolution your home community passed is identical or very similar to the one my home town in Hamilton passed. In your community, like mine, we've got the city council opposed to 136 and wanting it withdrawn, as well as the local labour council. I would assume that if your community continues to be like mine on this issue, you've got a lot of broad public and community support for withdrawing Bill 136.

I think that's happening more and more across the province, which is in part probably why the government is trying to rush this process through. They don't want the scrutiny the public would put this to and I suspect their polling has shown them this is a losing issue for them, big time.

The other thing is your comment on the promise the minister made to travel. One of the other presenters, actually from Hamilton, said she had to drive to Kincardine from Hamilton to go on cyberspace. She drove three times as far to do what you're doing when she's one hour away physically from where we are, and there was nobody sitting at the end of this table. We had her on the TV screen. It's most bizarre. Only the Mike Harris government could arrange this kind of situation. Her comment was that maybe what the minister meant when she said there would be travel across the province was that it was the citizens who had to do it as opposed to the politicians.

We've got to laugh because that's all we've got left, and this is such a sham in terms of the process. I agree with you when you say what's happened is shameful.

The fact is, we're down to the second-last day. Actually because of administrative matters we've only had three days of input. We'll finish this off tomorrow, Friday afternoon, at 5 o'clock. By Monday morning at 10 am we have to have all the amendments in in legal format and the last report we get from our researchers is at 9 am Monday morning. It's just a joke.

If the government really wanted to listen, and you were questioning whether they do, whether they're actually listening, the fact is they've got no process for sending this back to cabinet in time to consider what's been said here. So they've already decided what they're going to do. This is a sham. I've got to believe any government backbencher with any sensibility is extremely embarrassed by this and will be so glad when it's all finished.

The government likes to say: "Look, it's usual procedure. We don't normally consider amendments until after committee hearings." But we've never seen a piece of legislation where the government guts their own bill before they bring in the amendments. She basically announced that she's gutting the whole thing. Would you be looking for an opportunity after you've seen the amendments to have further input so that you could talk more accurately about exactly what it is the government's proposing?

Ms Pan: Absolutely. I really appreciate that you've raised these issues because it's very difficult to prepare a presentation with a day's notice anyway.

I ought to let the committee in Toronto know that tonight is our labour council meeting, which is something I'm missing right now to be here, but we thought it was important enough that our labour council be seen and heard here, so I'm here. We have a labour council meeting so I had to do all the preparations for that. Some folks might be aware that this weekend is the North Bay Days of Action and after our labour council meeting tonight a number of us are heading off on the bus to North Bay, so there were preparations to make for that, not to mention just the regular run-of-the-mill things.

Doing this, as a person who has a full-time, straight day job, was not easy, but I want you to know that we've done this, we've made the effort because we think it's important that however much of a sham this exercise may be, a hollow exercise, we have to do our best to let the government know. It's very difficult to make a presentation based on, "Maybe it's this, but maybe it's that." I don't believe a thing this government says to me. I have to see it in writing and I have to see it from more than one source — Hansard will do — because I don't believe anything they've said. They say one thing and they turn around and do another thing or they just lie. I guess that's the easiest way I can put it. They just lie.

Mr Christopherson: Thanks very much for your presentation. I'll see you Saturday in North Bay.

Ms Pan: Absolutely.

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Mr Steve Gilchrist (Scarborough East): I appreciate your comments here tonight. Let me just start with a couple of thoughts your comments have raised.

I don't think you have a monopoly on scepticism. Back on August 19, Mr Sid Ryan was on CFRB radio, Canada's largest radio station, and in fact I could cite you four different instances where he used words in different interviews all with the same basic theme, "If the real goal is to ensure a smooth transition with no labour disruption, I know myself that our union can guarantee that."

Then the day the minister made the changes, having reflected on the meetings they've held with the union leaders, he was asked the question, "The minister said you've used the word 'guarantee' there won't be any strike." His response, "I don't know where she's getting that statement from." Quite frankly, Mr Ryan has no credibility.

Ms Pan, you have suggested in your comments that you haven't seen any dialogue yet. You referred to that in the context of the AMO resolution and Thunder Bay's similar resolution.

Ms Pan: If I may, the AMO resolution —

Mr Gilchrist: Let me just finish, Ms Pan, and then I would invite your response in turn.

I find it interesting that you say there's been no dialogue and yet at the same time you recognize that the minister has made a number of changes. Let me just reiterate those changes, your scepticism notwithstanding.

We've removed a proposed restriction on the right to strike. It's gone. It's on the record, those sections are gone. We have provided the first-contract provisions of the Labour Relations Act will continue to apply for first collective agreements, as you have suggested in your own presentation. We agreed and are replacing the proposed Labour Relations Transition Commission with the OLRB, period. We have ensured that following restructuring, employees' choice of union representation will be determined by a democratic secret ballot, and I believe in your comment you suggested that was a worthy goal. We have completely eliminated the proposed Dispute Resolution Commission; It's gone. We have returned instead to the current legislative provisions governing the appointment of arbitrators. There are a number of other changes and I won't belabour that.

The fact of the matter is, we've had a situation here where the bill was tabled on June 3. That's not yesterday, it's not a week ago. All parties and all interested stakeholders have had an opportunity to read the bill, and if they thought improvements were required or appropriate, consult with their colleagues and come back and make those comments. You may not be aware, and I don't want to be unfair to you, but going back well into July, in writing, Mr Gord Wilson and other labour leaders were invited to sit down at the table — phone conversations or phone requests right from the minister and letters from the minister — and they declined. They didn't want to be part of those discussions until they'd gone through Labour Day.

I'll leave it to others to ascertain the motives and the sincerity behind that, but they got their soapbox on Labour Day and then miraculously they decided it was worthy to sit down with the minister, and as a result of those face-to-face meetings, surprise, surprise, they never thought we would listen, but we listened and we responded and the four major concerns they had, we dealt with. They're done; they're gone. Like you, sure, in a perfect world we'd have the specific wording that says, "Clause such-and-such is deleted."

But let me say something else to you because you should be equally offended if you're offended at the absence of the amendments. Neither the Liberals nor the NDP have brought forward any amendments. They have also had the bill since June 3. So forget any nonsense about the researcher's report coming in at 9 o'clock on Monday morning. The researcher's report is only a compilation of the comments you yourself and others are making. I would hope Mr Christopherson doesn't need to be reminded just two days from now of the points you've made here tonight. I'm sure he's making notes and will take under consideration what you've said. He doesn't need a researcher to remind him.

The bottom line is that all the suggestions that have been made all the way up till now, if the Liberals and the NDP had any credibility, they would have tabled their amendments. Do you know why they don't, Ms Pan? Because then we'd have the opportunity to ask you what

you thought about their suggestions and they won't expose themselves to that. That's the bottom line.

I guess I'm left with a great deal of consternation. We have said it publicly on the record, all those changes are absolute. I appreciate you can say you're sceptical, but I hardly think our minister, or Mr Christopherson during his term of office or Mr Patten during his, that any of them would have gone on the record and said those things and then only a few days later been called to account because they didn't honour it. I think we would all accept, face value, these commitments will be honoured.

For you to have made a major part of your presentation disputes with sections that have already been deleted I find somewhat surprising, but I think what Mr Ryan — I'm told my time is running out. I guess I'll just leave it.

You have used your hospital anecdote about the mergers and you said that as a result of the cooperation between the workforces there, they held a secret ballot and they've resolved that. I can give you this assurance, that that is in the bill and that unless all of the voting bargaining agents agree there shouldn't be a vote, there will always, in every case of restructuring, be a vote required and that you can't go even to the OLRB unless there's been good-faith bargaining.

Thank you very much for your comments and we will certainly take them under advisement.

Ms Pan: May I just have a moment, please?

The Chair: Your time has expired. Very briefly, please.

Ms Pan: Fine. I'd like to say for starters that I really do not appreciate being yelled at by somebody who obviously didn't listen to what we had to say. Had he been listening —

Mr Gilchrist: I hardly was yelling, Ms Pan, but I can't control the volume at your end. I'm not yelling. I'm using my normal speaking voice here. So my apologies if the technician at that end has the sound turned up.

Ms Pan: I don't appreciate blaming a technician for something — your attitude is very plain.

Had you been listening, you would have heard me say in our presentation that we heard what the minister said in the Legislature, but we don't believe her.

Mr Gilchrist: Well, I don't believe Mr Ryan, so I guess we're equal, Ms Pan.

The Chair: I'm sorry.

Ms Pan: If you had been listening, if you were —

The Chair: We have to wrap up. I'm sorry to interrupt you, but we are out of time. Ms Pan, I want to thank you on behalf of all the members of the committee for taking the time to come before us tonight. Your attention to this bill is appreciated and we thank you again.

Ms Pan: And I'd appreciate the opportunity to debate the amendments. Thank you.

The Chair: Thank you.

OFFICE AND PROFESSIONAL EMPLOYEES INTERNATIONAL UNION, MID-CANADA COUNCIL

The Chair: We now will welcome from the same location in Thunder Bay representatives from the Office and Professional Employees International Union, the Mid-Canada Council.

Mr Larry Kopechanski: My name is Larry Kopechanski and I'm president of Local 386 of the Office and Professional Employees International Union and also president of Mid-Canada Council, which represents 1,400 employees spread between Marathon in the east and the Manitoba border to the west. My associate is Joan Johnson, president of Local 219 from Marathon, Ontario.

This submission on Bill 136 is made on behalf of the Office and Professional Employees International Union. We would like to thank you for this opportunity in allowing us to present our concerns regarding Bill 136, the Public Sector Transition Stability Act, 1997.

On behalf of our brothers and sisters belonging to OPEIU across the province, we would like it to be known that we are glad the Minister of Labour, Elizabeth Witmer, has kept her promise to the people of Ontario in holding public hearings across the province. Is this an effort to save face for an upcoming election?

It is very unfortunate that we were notified of the hearings only a few more than 24 hours in advance, that these hearings are not open to the public across the province, and that there are only five groups that can voice their concerns in Thunder Bay on behalf of northern Ontario.

If the minister is allowing for more presentations than we have spoken about, she has kept her intentions in the closet along with her amendments.

The amendments in themselves are a whole other issue. We are dissatisfied that these hearings are taking place on a very controversial bill. While the minister has publicly promised a great deal of change, the government has not yet provided those changes to the people of Ontario. How can we truly voice the concerns of the public sector employees we represent regarding Bill 136 without addressing the proposed amendments? What weight will be given to these presentations by the government considering the proposed changes to the bill? Will the Harris government turn around and say to the taxpayers: "They wanted public hearings? They got public hearings and not one presenter disputed our amendments"?

How can we dispute, comment or assist in making this change better for the people of Ontario when the government refuses to work towards accomplishing one common goal?

Pardon us. The Premier finally did meet with labour after massive mobilization of the labour movement.

The Mike Harris government has set new rules and invoked a closure motion which will severely restrict debate on this legislation. There are four days of scheduled hearings. This is day four. We are still kept in the dark, we don't know exactly what the amendments

will be. We don't know how they'll affect public sector employees of this province. The government intends to pass this bill in record time. It has been stated that Bill 136 will go to third and final reading October 2, 1997, and become law.

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We feel for all committee members involved in this makeshift public hearing. Your timeliness for properly doing your jobs is unbelievable. Can this committee achieve its purpose? You'll have four days of hearings, absorb and apply the information received, and make recommendations that will impact approximately 500,000 Ontario citizens — and all by September 29. Is this what Mr Harris calls accountability to taxpayers?

It is our understanding that the clause-by-clause reading is set for September 30. Two short days later, on October 2, 1997, the third and final reading of Bill 136 will become law — all this without having any input to the proposed amendments. What happened to our democratic rights?

The government claims to have introduced Bill 136 in order to deal with the mergers and amalgamations of hospitals, school boards, municipalities and other social services. They say that Bill 136, the Public Sector Transition Stability Act, 1997, will ensure that services are merged in a timely matter and without disruption. We believe the opposite. Bill 136 will create utter chaos. This province has been through change before, successfully and under the present structure. It is our opinion that the government of the day is blatantly blaming public sector employees for their inadequate tax cut plan.

By introducing Bill 136, it is the public sector employees who will pay with their jobs, their wages and their benefits for decisions that are beyond their control. The closing of dozens of hospitals across the province and the forced merger of many others, the unwanted amalgamations of cities and school boards and the cutting and downloading of provincial services will only generate massive disruption. The accompanying job loss will only breed frustration and conflict. The introduction of this bill will not resolve the government's said intention of "smoothing the transition period." The complexities of such transition require thought and patience, not legislation that will further erode the system in place.

Bill 136 as it was first introduced was very complex, lengthy and in some areas very unclear. It amends seven pieces of legislation: the Labour Relations Act, the Employment Standards Act, the Hospital Labour Disputes Arbitration Act, the Public Service Act, the Police Services Act, the Fire Protection and Prevention Act and the Pay Equity Act.

Pay equity is a human right. It was established to redress gender discrimination in the compensation of employees employed in female job classes in Ontario. By introducing Bill 136 and amending the Pay Equity Act, the government is jeopardizing equal pay for equal work. This alone is an attack on women, who are statistically paid less for jobs of equal value compared to male classifications.

By eliminating the employee wage protection program presently in the Employment Standards Act, the government of the day is giving the message that workers are second-class citizens and should stand at the back of the line to receive wages they have worked for and are entitled to, should their employers go bankrupt. Is this government taking proactive measures for massive bankruptcies in Ontario due to their implementation of the Common Sense Revolution?

The disputes resolution act and the Dispute Resolution Commission established under it would effectively abolish the long-standing system of independent, impartial, tripartite arbitration for resolving collective bargaining disputes and settling the terms of collective agreements. It would permanently apply in those sectors where employees regarded as essential are denied the right to strike; for example, hospital workers, police and firefighters. It replaces free collective bargaining in the broader public sector, such as municipal employees, by suspending the right to strike during the transition period of restructuring.

The DRC will not be composed of independent arbitrators chosen by the workplace parties but rather by direct cabinet appointments. This alone demonstrates the fundamentally biased nature of the DRC and Bill 136 as a whole. The members of the Office and Professional Employees International Union, which we represent, could never support legislation which allows such biased interference in the relationship between ourselves and the employers we bargain with.

Examples of this bias can be found not only in the process of appointment of the commissioners, but also in the criteria of the DRC and the one-sided powers it will have at its disposal. Bill 136 requires that the commission consider new criteria, such as an employer's ability to pay, first introduced in the government's omnibus Bill 26.

Further criteria, such as "best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers," are introduced in this bill. These new criteria of affordability and best practices, together with the criteria from Bill 26, are augmented by the authority of the commission to rely on unilaterally proclaimed policy statements. Together, such new criteria raise grave concerns as to the independence of the DRC and that unionized workers could be forced to accept the lowest wages paid in the private sector for comparable work.

To understand the seriousness of this change, one needs to know that the arbitration system of dispute resolution was established to replace the right to strike and therefore is supposed to mirror free collective bargaining as closely as possible. To impose one-sided criteria such as this on an arbitrator is similar to telling private sector workers that they can't strike if their employers tell them they can't afford to pay their wages or benefits.

The act gives the cabinet-appointed commissioners sweeping arbitrary powers which violate any pretence of due process. Some of these powers include the ability to limit witnesses, hold or not hold a hearing, require written

submissions and to set the length of both oral and written submissions, prohibit one party to the dispute from access to any information it sees fit, and decide other matters it deems necessary. It even has the right to set its own policies governing disputes settlements, regardless of the position of the parties to the dispute.

This act clearly destroys the free collective bargaining process that workers in Ontario and any democratic society have long held sacred. Potentially the DRC would have the power to dictate a collective agreement on behalf of a group of workers without virtually any input from those workers. The act would further allow the DRC the right to rely on their own agenda, not necessarily that of the workers or employers involved.

Finally, the DRC is a permanent body. It is not just established for a limited transition period. It will therefore effectively eliminate the due process of an independent, impartial arbitration system which, while itself short of the right to free collective bargaining, at least has the advantage of fairness.

Also under Bill 136 is the introduction of the Public Sector Labour Relations Transition Act, which established another cabinet-appointed commission called the Labour Relations Transition Commission. While the DRC imposed a new system of disputes resolution, the LRTC is established to determine the issues arising from the government's imposed restructuring and downsizing of hospitals, school boards and municipalities. These include such far-reaching issues as the size and shape of the new bargaining unit, which union would represent employees in the new bargaining unit, seniority of both union and non-union employees, plus the terms and conditions of employment during the transition period.

Like the DRC, the LRTC is a body arbitrarily established by the government. The positions in this new bureaucracy are again to be filled by cabinet appointments. There is no fair due process in either the LRTC's establishment or in its function. Employers, for example, can use the transition commission unilaterally. The union cannot oppose this, nor appeal its rulings, however biased.

Unlike the DRC, the LRTC is supposedly a temporary body in effect until December 31, 2001, although it can be extended by regulation. During this transition period the right to strike for workers who can now have free collective bargaining, such as municipal employees, is suspended.

To summarize, the Dispute Resolution Commission is established by the Harris Conservatives and filled with its unilateral appointments for the sole purpose of circumventing the precedents and due process of the independent arbitration system. The transition commission is established by the Harris Conservatives and filled with its appointments only to circumvent the arbitral jurisprudence and due process of the labour relations board.

The reason for labour's opposition to Bill 136 should be obvious. The one-sided interference, the arbitrariness and the lack of an impartial due process should be of concern to all citizens who favour democratic rights and basic fairness.

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There are several reasons why we think the government has introduced this bill in the face of long-standing, more appropriate and more fair mechanisms already in place. These reasons, in our view, concern the government's desire to impose fundamental changes in Ontario society as a whole. Such changes would foster more inequality, more unemployment and push women, visible minorities, and youth out of the guarded public sector and into the low-wage private service sector.

The purpose of Bill 136 in our opinion is to pay for the Harris tax cuts for wealthy Ontarians, to prepare for the mass privatization of the public sector, create a downsized, low-wage broader public sector which will function to drag down private sector wages and to attack the democratic rights of working people and their unions, which stand against the government's policies and are able to actively mobilize opposition to them.

In conclusion, we cannot stress enough the inequities in the structure of these hearings. We have briefly discussed some of the controversial issues introduced in Bill 136. We have not had the opportunity to address the ghost amendments.

We urge the committee members of this panel to take back to the Harris government a recommendation that more hearings be held on the amendments that the Minister of Labour, Elizabeth Witmer, has promised. We urge the committee members of this panel to take back to the Harris government a recommendation not to rush such a controversial bill. We recommend to the committee members of this panel to let the Harris government know that the public sector employees will not stand for such unjust, undemocratic, and unfair practices in the province of Ontario, and request that Bill 136 be repealed.

On behalf of the Office and Professional Employees International Union, we thank you for your time.

Mr Christopherson: Thank you, Larry, for your presentation. I appreciate the detail and depth you've gone into. It's just unfortunate you don't have the actual amendments so that it could be directed to exactly what's going to happen, rather than what the government was going to do last week.

Just so we keep this process thing straight, because it's crucial to all of this, the fact that all of this is a sham, it's a front, the government's already made up their mind in terms of what they're going to do, up until Wednesday of last week, things were just motoring along that Bill 136 was not going to change, that the government was planning to ram it through, and the public sector people in communities and city councils and even AMO were all mobilizing against it up until Wednesday.

On Wednesday, the Minister of Labour introduced the time allocation motion and that effectively lit the fuse right across this entire province, because that's when she shut down any kind of real democratic input. Then we get into this sham of a process, this joke, this insult that says we've only got till tomorrow at 5 o'clock. Amendments have to be on the table by 10 am Monday morning and we start debating those amendments at 3:30 that afternoon.

That's finished the next day, and then the time allocation says we get one day of debate, which means at most three hours and probably less than that, in the House to debate the final version of what this government's going to do. That's the reality.

After she lit the fuse on Wednesday and the labour movement and the communities across Ontario mobilized all evening, all night, into the next morning, into the next afternoon, then she got up and said: "Oh no, just kidding. I'm not really going to do Bill 136. I'm going to gut this and do something completely different."

But you, Larry, don't get a chance to comment on what "something different" is. I hope that we're able to put more and more pressure on this government. We should be able to, if we can get the word out that this is a sham and that any real hearings, first of all, involve meeting the minister's promise of travel, so we can do this face to face rather than this cosmetic cyberspace thing they've slapped together at the last minute to cover off; and secondly, that we get an opportunity to comment on the real deal, on the bill, to make sure the actual words in the legislation match what the minister has said.

I want to ask you one question if I've got time, Larry, and that is, why do you think the government stood down on terms of the original Bill 136 as we've known it up to now?

Mr Kopechanski: I think they took into account the quick mobilization of the labour movement and realized that there was some massive opposition to it and if they didn't do something, then they would be made to look like fools when all the walkouts started taking place.

Mr Maves: Thank you very much, Mr Kopechanski, for your presentation. I apologize for the late notice that you received to make your presentation. I must say, though, that I did have a motion before a subcommittee of this committee last Thursday that if the members from the two opposition parties would have agreed to would have allowed our clerks to start telling people a lot earlier, perhaps even as early as last Thursday and Friday, about the possibility and times that people would have come in to have hearings. I thought it's only fair that you know that.

One of the statements you said was that we don't need any changes to the existing system, that everything would go along fine the way it was, and with Bill 136 prior to the changes the minister talked about, if that was the case, that if people could collectively bargain solutions to finding new units and new agents and a new contract, they would never have had to go to Dispute Resolution Commission or the LRTC. As you've heard, those bodies are being eliminated and replaced by the OLRB and the use of first-contract arbitration is now going to be utilized. The right to strike has been returned for municipal employees, as the way it was, and we're going to use the first-contract arbitration process, the one that was brought in by the Liberal-NDP government of 1986. I just wondered if you support the first-contract arbitration process in Ontario today.

Mr Kopechanski: Personally, I don't. It is one way of getting the job done, and for lack of any other process I guess it works in some cases. The only problem is, with the process that has been established and outlined in the bill to date, you've got 30 days to negotiate a collective agreement and then an agreement is imposed on you, regardless of whether that agreement is partial to one side or the other or meets the needs of either of the parties. That's the thing that's most devastating about the whole thing: You could end up with a collective agreement that doesn't suit the interests of the employees or the employers.

Mr Maves: Okay, so you didn't agree with first-contract arbitration when they brought it in or the 30-day change that the NDP brought in in Bill 40. Do you support employees having the ability to vote on their new bargaining agent?

Mr Kopechanski: Yes, of course.

Mr Maves: Okay. Do you support the equal treatment of years of service for union and non-union employees?

Mr Kopechanski: No, I don't.

Mr Maves: Why is that, sir?

Mr Kopechanski: Because if an employee elects to take a non-union position, that is their right, but why then should they have the right, in times of turmoil, to revert to their total service with the employer and bump somebody who has stayed in a union position for the reason of security?

Mr Maves: I guess I would say, why shouldn't they? If two people have served the same employer for the same number of years, regardless of whether they were union or non-union, which is their right to choose, whether they want to be union or non-union, I guess my question is, why shouldn't they be treated equally?

Mr Kopechanski: There are perks usually that go with non-union positions and if that's what you want, the perks, then take them and stay there. Don't revert back to the bargaining unit when times get tough or you lose your job.

Mr Maves: If the majority in the new bargaining unit — and the non-union employees are in that new bargaining unit — vote to have a bargaining unit and a bargaining agent, then the democratic way is those people are now included in the bargaining unit.

Mr Kopechanski: If that's what the legislation is going to end up saying, yes, but at this point in time we don't know what it's going to say. These are some of the ghost amendments that we haven't seen yet.

Mr Maves: So you would say unionized employees should all be in line first for new positions in a new workplace if there's an amalgamation, say, of a municipality, and non-unionized should then be considered for placements.

Mr Kopechanski: If the new positions are going to fall within a bargaining unit, yes, it should be up to the union employees to take them first.

Mr Maves: Okay, thank you.

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Mr Patten: Good evening, Larry.

Mr Kopechanski: Good evening.

Mr Patten: First of all, I'm sorry to say that we're not up there in Thunder Bay having a chance to meet you face to face, as I think we should have been. Hopefully the next go around we will be and hopefully the government will honour its commitments when it states that it will in fact honour the province, which it didn't in this instance. I'm sorry that's not happening.

Mr Maves just talked about a subcommittee meeting we had in which he said he would want to talk about advertising. We were so abhorrent to the fact that we weren't going to be travelling that the subcommittee, which is made up of Mr Maves, Mr Christopherson and myself, recommended to the full committee to extend the hearings, to ask for the amendments so that people like yourself, Larry, and any witness who would come before us would know precisely and specifically what we were dealing with.

We had one other amendment — I forget what it was at the moment — and we brought that to the full committee, which is our role. It was voted down. Of course it was voted down because there are a majority of government members on the committee and they didn't want to see that because they want to honour the time allocation motion that was made by the government.

We wanted to fight to extend the hearings and to travel around the province; that was the reason. Larry, did you hear the minister or do you have any transcripts of the minister's comments at the opening of the hearings last Tuesday?

Mr Kopechanski: No, I don't.

Mr Patten: She said she wanted to elaborate on the details of it. I haven't got the time to give you the specifics, but there are extra copies here. We should try and get them to you.

Mr Kopechanski: Just pass one across the table.

Mr Patten: Yeah, right. Okay. The minister has loosened up in her statements to say that yes, she is now a little more open to the selection of arbitrators. But what has happened in both instances, for the non-essential workers and for the other workers who have a right to strike, the arbitrators now have new criteria imposed upon them. It is not the regular labour sector procedures that people may think will happen. She says right in her statement to us at the committee that the changes we are making will certainly provide representatives with the tools they need.

I'd like to turn briefly to the criterion of ability to pay. The government will be extending ability to pay and other criteria they had in the original bill that were destined for those two commissions. Those criteria will be transferred to the arbitrators in both instances and will change the terms of reference and the mandate for arbitrators as they deal with this particular piece of legislation. Were you aware of her statement saying that?

Mr Kopechanski: No, I wasn't. If that's what they're going to do, impose the DRC criteria on the arbitrators, basically they're taking away the effectiveness of the arbitrator completely.

Mr Patten: That's my view too. I keep waiting for a debate from some of my colleagues, but they're not contradicting me. I have it right here in the words of the minister. That's why I'm so concerned about it and why I'm worried that we might hit a crisis by Monday morning.

The Chair: Mr Kopechanski, we thank you very much for coming before the committee tonight with your colleague Ms Johnson. We appreciate your taking the time to share your advice with the committee.

CANADIAN UNION OF
PUBLIC EMPLOYEES,
LAKEHEAD AREA OFFICE

The Chair: I'd like now to call upon, also live from Thunder Bay, the Canadian Union of Public Employees representatives. Good evening. Welcome to the standing committee. We are glad you are able to join us. We welcome you and ask that you would introduce yourselves for the Hansard record.

Mr Howard Matthews: My name is Howard Matthews. I'm a national representative with the Canadian Union of Public Employees assigned to the Lakehead area. With me is Shirley Marino, president of Local 2486 with 240 members who work at the Lakehead Board of Education. Also with me is Barry Chezick, negotiating chairperson for our largest local in northwestern Ontario, Local 87, representing municipal workers. The largest group is at the city of Thunder Bay.

I've been a union representative for 16 years. Before that I was an activist. I've negotiated more than 100 contracts in those 16 years. During the course of those negotiations I've taken more than 20 different strike votes. However, I've never taken a group out on strike. In fact, I've never even been on strike myself. We have reached a mutually acceptable settlement on every single occasion. I'm extremely proud of this fact and I would be extremely proud to finish my entire career without ever having to take a group out on strike.

I do not — and my members do not — want to strike over Bill 136. I am not strike-happy, neither are my members and neither is my union. The record speaks for itself on that. The second-last thing we want is a strike; the last thing we want is Bill 136 the way it is currently written. One last comment on strikes: Strikes really hurt our members more than they hurt the employer. Strikes are somewhat akin to a letter carrier shooting herself in the foot. She doesn't deliver the mail so fast but she doesn't feel so hot about it either.

We intend to address Bill 136 as it is presently written. We have heard about the promised amendments. If those are negotiated in good faith, then there is every reason to expect a settlement and there will be no strike. Those promised amendments will so change the bill that they will make it a completely different bill. We think it is an outrage to democracy for the government to table these amendments, which make this a completely different bill,

on Monday morning, September 29, and to force the Legislature to vote on it by Tuesday or Wednesday afternoon.

This process seems deliberately designed to provoke suspicion and confrontation. We have to ask, what's the rush? In that context, the original timetable had this bill going to public hearings in mid-October and not being finally passed until the end of October. We've never heard a reason why that timetable needs to be rushed up to where it's being rushed. Surely this bill does not have to be voted on next Tuesday or Wednesday. Enough time can be set aside to resolve any disputes that may arise as a result of the amendments that will be tabled on Monday. Certainly the parties are closer together now than they were a week ago at this time. It would be indeed tragic if a strike occurred because of the government's determination to rush through a completely amended bill that will be hitting the light of day for the first time on Monday.

One final comment: We regret that we were not advised of the opportunity to address this committee until late yesterday morning. As a result, this document is not as well researched as we would normally like. However, it hits all the main points we would make even if we had reasonable time to prepare. I've left copies with your clerk here in Thunder Bay to pass on to all the committee members.

The next section I want to get to is the modern labour relations environment. The modern environment evolved in the last 50 or 60 years, depending on what event you count it from. It followed over a century of worker struggle against both employers and government. Many workers over many years made great sacrifices, some giving up their lives in the struggle for collective bargaining rights. The Winnipeg general strike in 1919 is but one example of that struggle.

The genesis of the modern labour environment is in the Wagner Act in the United States in 1935 and in Privy Council resolution 1003 passed in Canada during the Second World War. The concepts in these documents were incorporated into labour relations acts around the country after the Second World War. These documents provided the basic collective bargaining rights and obligations on both parties, including the obligation to bargain in good faith. Collective bargaining was established not only as a right but as a desirable public policy goal.

The Ontario Labour Relations Board was created to oversee the process and to ensure that employers did not interfere in the right of employees to join a union and to engage in collective bargaining. In the late 1940s the Rand formula — that's Justice Rand, a justice of the Supreme Court of Canada at that time — came into existence as well as the loss of the right to strike during the term of a collective agreement in exchange for binding resolution of disputes by arbitration. The whole body of arbitral jurisprudence has evolved out of this development. I'll speak more on that in a moment.

Further restriction on the right to strike occurred in the 1960s, when essential service employees lost their right to

strike in many provinces in exchange for impartial third-party interest arbitration. The need for collective bargaining flows out of the simple truism that a single employee is no match for a modern employer. The common analogy is the single worker against Henry Ford. The concepts of supply and demand are only reasonably applicable to commodities, not to people. Workers are not commodities to be bought and sold by the cheapest bidder.

2010

Working people are entitled to negotiate a fair day's pay for a fair day's work. We are entitled to wages and working conditions that allow us and our families to participate in the community with dignity. We are entitled to a fair share of the wealth that is created by our work. We are entitled to deal with problems with our employers with a sense of equality, not as master and servant.

What is most important, we are entitled to bargain provisions and collective agreements that ensure that our members will perform the work they are doing during the term of the agreement. In other words, we are entitled to negotiate protection against contracting out and privatization of our jobs. Further, it is important to remember that collective agreements are for relatively short periods of time, usually one, two or three years. Any clause in those agreements can be negotiated and renegotiated in the next agreement.

Free collective bargaining is a universally recognized human right. The right to strike is fundamental to collective bargaining. Restrictions on the right to strike should be rare and only apply in exceptional situations. In the case of essential services employees, employees should only lose the right to strike in exchange for impartial third-party binding arbitration.

Arbitrators, arbitral jurisprudence and the labour board: Implicit in this legislation is a profound lack of understanding and respect for the legal traditions that have evolved in labour law in the province and in the country, and for the tribunals and practitioners that have developed and created the jurisprudence and processes that have flowed from these tribunals. The unspoken suggestion that these labour practitioners have been biased in favour of labour — nothing could be further from the truth. If anyone deserves the title of father of modern arbitral jurisprudence, it is Bora Laskin, who incidentally is from Thunder Bay.

Professor Laskin went on to become Chief Justice of the Supreme Court of Canada. Professor Laskin set a standard of excellence in writing arbitration awards that arbitrators who followed were compelled to emulate. I have attached one such award from the hundreds he wrote, titled, "Polymer Corp Ltd," written in 1959. Following is an excerpt from one page of about a 10-page award. This is Professor Laskin:

"It seems to this board that fundamental to any approach to the issue is some understanding of the history and purpose of resort to 'final' or 'binding' arbitration, to use the terms which appear respectively in s. 19 of the Industrial Relations and Disputes Investigation Act and art. 7.04 of the governing collective agreement. As a

matter of history, collective agreements in Canada had no legal force in their own right until the advent of compulsory collective bargaining legislation. Our courts refused to assume original jurisdiction for their enforcement and placed them outside of the legal framework within which contractual obligations of individuals were administered. The legislation, which in the context of encouragement to collective bargaining sought stability in employer-employee relations, envisaged arbitration through a mutually accepted tribunal as a built-in device for ensuring the realization of the rights and enforcement of the obligations which were the products of successful negotiation." Now keep in mind this was written in 1959. "Original jurisdiction without right of appeal was vested in boards of arbitration under legislative and consensual prescriptions for finality and for binding determinations. In short, boards of arbitration were entrusted with the duty of effective adjudication differing in no way, save perhaps in the greater responsibility conferred upon them, from the adjudicative authority exercised by the ordinary courts in civil cases of breach of contract." What it effectively did was make collective agreements as enforceable as any other contract in our society.

"That adjudication was intended to be remedial as well as declaratory could hardly be doubted. Expeditious settlement of grievances, without undue formality and without excessive cost, was no less a key to successful collective bargaining in day-to-day administration of collective agreements than the successful negotiation of the agreements in the first place. Favourable settlement where an employment was aggrieved meant not a formal abstract declaration of his rights but affirmative relief to give him his due according to the rights and obligations of the collective agreement. In some jurisdictions, as for example, Ontario, this view was emphasized by the fact of statutory withdrawal of the application of arbitration acts from labour arbitrations, thus excluding the kind of curial review which was open to the parties to commercial arbitration. To have proposed to union negotiators that collective agreements, so long ignored in law and left to 'lawless' enforcement by strikes and picketing, should continue to be merely empty vehicles for propounding declarations of right when the right to strike during their currency was taken away, would be to mock the policy of compulsory collective bargaining legislation which envisaged the collective agreement as the touchstone of the successful operation of that policy."

That's one statement on the evolution of arbitration which was written at the time it was evolving.

Professor Laskin understood the historic tradeoffs and balancing that went into these labour processes. These processes are part of the real social contract in this province. All arbitrators in the province understand the tradeoffs and balancing that are part of the present labour relations environment. It is important for government to understand the evolution of these processes as well and that the processes brought an end to many decades of labour relations conflict.

There seems to be an understanding of some of these processes in what's being called the "phantom amendments" we're hearing about, but there's no recognition of these processes in the original bill. The foregoing deals with rights or grievance arbitration. The same arbitrators deal with interest arbitration; the same people, the same kind of evolution and respect for judicial processes has occurred in interest arbitration. Bill 136 attacks the independence, impartiality and fairness of the interest arbitration process and replaces it with decision-making by government cronies.

Some 30 years ago, our members in essential services lost the right to strike in exchange for impartial, independent and fair interest arbitration. That was the tradeoff. Now the government is attempting to take back our part of the bargain. Our position is straightforward: If we do not have impartial third-party fair arbitration, then we have the right to strike. It is that simple.

One final comment before leaving this section, and this was raised earlier by one of the questioners: Employers have always included the "ability to pay" argument in their submissions to arbitrators, and arbitrators have always considered it along with other arguments put forward by the parties. It is ludicrous and preposterous, if you've ever been to an interest arbitration proceeding, to suggest that those propositions haven't been put before arbitrators and that arbitrators haven't considered them. Certainly, every single arbitration table I've ever been at has seen the employer raise that issue.

However, to use one example in a hospital context, the ostensible employer in the context of a hospital arbitration is the provincial government. To suggest that the arbitrator is bound in his or her decision to restrict their award to the amount of the provincial government's grant is self-serving to the nth degree.

Labour's position, conclusion: Following is labour's position in regard to Bill 136.

(1) In our democratic society, employees are entitled to have their terms and conditions of employment negotiated through a process of free collective bargaining.

(2) The right to strike is essential to free collective bargaining.

(3) In the case of workers providing essential services, if the right to strike is curtailed, it must be replaced with independent and impartial arbitration to determine employees' terms and conditions of employment.

(4) Employees should not lose their collective bargaining rights as a result of restructuring, and are therefore entitled to standard successor rights protection, including continued trade union representation and application of their collective agreement.

(5) Any changes to bargaining units or bargaining rights as a result of restructuring must be based on recognized labour relations principles and be determined through a democratic, open, fair and independent process.

(6) Legislation must ensure that tribunals responsible for determining the rights of employees are governed by basic principles of fundamental fairness and natural justice.

(7) Like doctors, workers in the broader public sector are entitled to have the terms of their employment determined through a process of free collective bargaining. Free collective bargaining requires the right to strike, a right which has recently been exercised by Ontario's doctors. By any definition of "strike," what the doctors conducted last fall falls under the definition of "strike." They weren't at the state of a full-scale withdrawal of services, but they certainly were acting in combination to achieve a collective agreement and withdrawing services. Essential service workers must have access to independent and impartial arbitration. If this is not made available, then like doctors, these workers are entitled to exercise the right to strike.

Bill 136 is unacceptable. The proposed Bill 136 violates these fundamental principles without any proven justification or necessity for doing so. Bill 136 would eliminate the right to strike, permanently abolish independent and impartial arbitration, restrict successor bargaining rights and collective agreement protection and undermine the independence of adjudicators and arbitrators. Bill 136 is deliberately designed to erode employee collective bargaining rights and collective agreement protections through a process that is neither fair nor independent.

2020

The foregoing is taken directly from the Ontario Federation of Labour's proclamation given to the government on July 28, 1997. There is no change in labour's position. We are not shifting and have not shifted our premises.

The question arises: What is labour seeking in these negotiations? The answer is as simple as it can be: Nothing. Zero. Zilch. All of the above-listed demands are what presently exist, and these rights exist in every country in the world that is democratic. Our position is that you cannot take away our democratic rights. We ask and have asked for nothing in these negotiations. We have asked for you to leave the democratic traditions of this province that are now over 50 years old alone and stop attacking the citizens of your own province.

I did not come here to make threats, but I promise you that you will not take away our rights without a fight, and that fight will last as long as it takes to get our rights back. If we don't win the first battle, which is playing itself out now, the fight will go on and on and on for as many battles and as many fights as it takes until we finally get our rights back.

I have always believed and my union has always believed that any dispute that can be settled with a strike can be settled without one. It is time for cooler heads to prevail. The elements are present to settle these issues and to respect each other's rights. Let's get it done without a strike.

Mr Barry Chezick: My name is Barry Chezick. I have worked for the municipality of Thunder Bay for 22 years and I've been a member of this community for over 42 years, this city that was formed by the amalgamation of the city of Fort William, the city of Port Arthur, the municipality of Shuniah and the township of Neebing. In

1969, four CUPE locals holding 10 contracts were merged into one, CUPE Local 87. This was achieved the old-fashioned way, by a time-honoured method called negotiations. There was no need for a horrendous bill such as Bill 136.

I am disturbed about many aspects of the bill, but because of my close ties to my community I am going to focus my comments on the powers of the Dispute Resolution Commission as it pertains to first collective agreements after a restructuring. Your government wishes to give this commission the power to decide these agreements based on the purposes set out in the act, which include encouraging "best practices that ensure delivery of quality and efficient public services that are affordable for the taxpayers." The disputes commission must compare the efficiency of the public service with the best practice in the private sector.

The decision of the government to give such powers to one select group of individuals to make sure the taxpayers in the municipalities get their bang for their buck seems on the surface to be the responsible thing to do. In reality, all it is trying to do is find ways to open up public service delivery to private contractors, most of whom are large corporations.

What do the words "best practice" really mean? It may not be obvious to you, but to me these words should have been replaced in the bill with the words "cheapest practice." Let's not be fooled by thinking this has anything to do with the quality and efficiency of services that are going to be provided to the taxpayer. If we are to examine this closer, it becomes quite apparent that the government wishes to turn over the delivery of public service to the lowest bidder. We must keep in mind that private contractors are profit-motivated, so when they take over the delivery services that are being provided by the public sector, we must ask ourselves, "What will be sacrificed in order to assure this profit margin?"

Your government plans to have the Dispute Resolution Commission turn over all the municipalities' numbers related to the costs of the service delivery that the public sector provides, then put our jobs out to tender. What private company worth its salt would not be able to put in a lower bid to provide such service with their competitor's numbers in front of them? In any other tender process the municipalities would undertake, this type of action would be considered criminal.

One must also open your eyes to the increases in user fees in the province and the reintroduction of a two-tier system into our society. Some services soon will be available only to those that can afford them if turned over to the private sector. I am here to tell you that the services my co-workers and I provide for the members of our community are and will continue to be delivered with a sense of pride and ownership. This is what guarantees quality and service.

For years I have cleaned up private contractors' messes, repaired damage that they have left behind, completed jobs that they have failed to finish, redone projects that they have done at less than a satisfactory

level and have been asked over and over again by my employer to take on tasks to complete the attempts that they have attempted to contract out, because not even they can justify paying more than twice the price that we as public sector employees can do the same job for.

I respectfully ask the government to take time out before you take the first step towards changing the way services are provided to my family, my neighbours, and the rest of Ontario. You might want to take a quick look at why municipalities went with providing the very services to the taxpayer that you now are so eager to hand back to those you had no choice but to take away from in the past. History is a good teacher.

In conclusion, if you are prepared to give the Association of Municipalities of Ontario the tools they requested to help them turn over my job or any CUPE members' jobs, you must also prepare yourself for a fight from us to protect those things we as unions have achieved through fair collective bargaining. I would like to address the committee on the negative effects of contracting out, which could well be the result under Bill 136 and Bill 137 both. I represent the custodial, cafeteria and maintenance staff with the Lakehead Board of Education. I would like to acquaint the committee with what we do, which is a lot more than just sweeping and mopping floors and hauling out the garbage.

We are security for 50 buildings within the Lakehead Board of Education. These are all million-dollar buildings. We provide the security, the maintenance, and also the cleaning. We have training on safety codes for the playground equipment and gym equipment. All these things have to meet government standards. We're familiar with those codes and we maintain them. Those of us who work for the board tend to retire from our jobs rather than quit them. The number of people quitting jobs with the Lakehead Board of Education in a year, you could count on the fingers of one hand.

By opening the door to a minimum-paid workforce as opposed to a reasonably paid stable workforce, you expose children in these buildings to a rapid turnover of untried, unknown workers. People who are stuck in minimum-wage jobs are always looking for something better, and no employer will place rigorous standards on or offer the extensive training required to maintain buildings to a safe standard with a transient employee.

The Lakehead Board of Education is an excellent employer. They have over a number of years been at the forefront of confronting issues of health and safety, and the contracting out does not work. In the words of our own employer, our people do it better, faster, and cheaper than any contractor they've ever hired.

That's all I have.

2030

The Chair: Thank you very much for your presentation. We have just over two minutes remaining for questioning, so in this circumstance we would do questioning only from the official opposition caucus at this time.

Mr Patten: Thank you very much for your presentations from all three of you. We only have about two minutes. I hope, by the way, that we will get a copy of your presentations. I understand the clerk had notified us here that we may have them by noon tomorrow. I thought they were very valuable.

One of the things you said struck a chord with me. It's been said in different ways, but I thought you said it well. It was using the criteria of the ability to pay, which arbitrators would have to use when it's the government that controls the purse-strings, especially in the case of school boards, even more so now than it was before — totally — and for hospitals the same thing, although it's not true in the case of all hospitals because they raise a little bit of their own funds. But by and large the provincial government controls or pays the freight for a lot of these things. So to apply that particular ability when they're putting the squeeze on municipalities or school boards and cutting back on expenses or hospitals, whatever the case may be, I gather you are saying really is a conflict-of-interest situation. Did I hear you correctly, Howard?

Mr Matthews: Absolutely. It's another way of eliminating collective bargaining. The government has been very creative on all the angles in this bill to try to do that, but nothing could be more self-serving than to decide how much money a school board or hospital is going to get and then tell an arbitrator, "You can award anything you want, but you have to stay within the money we've given you." That's not ability to pay. Ability to pay takes into account all kinds of things, such as the government's ability to tax and how much the government could afford to pass over to that hospital.

But I have to tell you, it's just a lie to say that arbitrators haven't taken ability to pay into account in their awards in the past. The government's emphasis here is not for arbitrators to take it into account; it's for them to be bound by it, and only that. That's what effectively eliminates collective bargaining. Arbitrators, if I could just explain this, are very well-to-do people. They're certainly not from the labour movement. They certainly understand economic issues and they're not irresponsible. They obviously take into account the ability of the government or an employer to pay for what they award in a contract, and they always have done that. This government is trying to create a shell game where it eliminates their freedom to look at all the factors.

Mr Patten: The history of any transition seems to suggest that and supports your arguments. Thank you very much, and I look forward to reading your brief.

The Chair: That concludes our presentation time. On behalf of all the members of the committee, we thank you for coming before the standing committee tonight.

SERVICE EMPLOYEES
INTERNATIONAL UNION,
LOCAL 268

The Chair: Colleagues, I would now like to call upon, again live from Thunder Bay by way of teleconferencing, representatives from the Service Employees International Union, Local 268. Good evening. Welcome to the committee. Just so you know, at this end it looks like we have eight members of the Legislature here in this committee room. You may begin any time.

Mr Glen Chochla: Thank you very much. I'm afraid we didn't have time to do a written submission, and a lot of what I was going to say was said very well by the previous presenters from CUPE. In particular, their comments about the ability to pay issue really summarized things very well, and the history of our collective bargaining process and how long and hard we struggled to set that process up in the first place. I think both of those things are very, very important in terms of the presentation that we're going to give, and I ask you to keep those in mind when you listen to me, and please, all members on the committee, keep those in mind when you're dealing with the amendments, because the history of collective bargaining and the history of how we got our present system is not something that should be lightly tampered with.

The reason we're on the eve of a general work stoppage right now is that this government is trying to turn the clock back 50 years. Citizens in Ontario, whether unionized or not, are saying, "Absolutely not," and employers are saying, "Absolutely not." The Association of Municipalities of Ontario has said to you Conservative Party members who are there in Toronto listening right now: "What in the world are you doing? Stop for a minute and take a look."

I think Mr Christopherson said it earlier this evening, and he's quite correct: The bill has been totally gutted. If we're to believe Elizabeth Witmer's statement of September 18 — and it's on faith at this point because we haven't seen the amendments; we'll know better on Monday — then surely there ought to be public hearings on the amendments once they're introduced. We would expect that, at a minimum, we will see full public hearings for a further couple of weeks on the amendments. Surely to God that will happen, and we expect that will happen.

Just a bit of a comment about what this government has done in the past. I appeared on Bill 26 a year and a half ago and I said much of what I'm going to say tonight at that point. Bill 26, if you'll remember, was another crisis situation such as we have now, where the government was trying to ram through an incredibly broad bill and there was basically a shutdown of the Legislature in order to get public hearings. Now we have a potential shutdown of the entire province. This government is lurching from one crisis to another, created by its own right-wing extremism.

We're encouraged by the fact that it would appear that within the caucus of the government, within its natural constituency in the Conservative Party, there is a reaction

against that. We're encouraged by that. We would ask you to continue with that process of self-criticism that it would appear you have begun to embark upon, because you're not governing in a commonsense manner. You're governing in really a nonsensical manner in the manner in which you're going about dealing with things like Bill 26 a year and a half ago and now this particular bill.

Our union local in Service Employees International is made up of approximately 4,500 members. Most of them work in nursing homes and hospitals, and municipal homes for the aged here in Thunder Bay. We're spread across northwestern Ontario into northeastern Ontario, all the way from Thunder Bay to Sault Ste Marie and the towns in between.

Our members, I can tell you, are absolutely committed to the provision of quality health services despite the stress they're under with really the gutting of the health care system by this government, and also the privatization of the health care system, because that is what this government is doing. The government is cutting hospital funding. It's saying, "Go to the community health care system in order to get your services," instead of from hospitals. It's underfunding that system and inviting American corporations to come up. We'll soon have to pay privately for community health services because they will be underfunded and the hospital system will continue to be underfunded. That's what our members are looking at right now. That's the context in which they're viewing Bill 136. So there's a bit of a more recent history and a bit of an explanation, I think, flowing from that as to why we're on the eve of a general work stoppage in Ontario.

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I want to talk a little about some of the original parts of the bill. The Dispute Resolution Commission that was proposed as a replacement for the HLDAA process was really quite outrageous. What you were doing with that commission — and that's what we have in the bill right now as it stands before us; it hasn't been amended as yet — was handpick government commissioners to decide what would go into hospital collective agreements. You were going to straddle them, you were going to hamstring them, not only with the ability to pay provisions that are in Bill 26, but also this best services provision that's in section 1 of the act.

We understand the government's getting off of the commission process. That's positive. We understand that you're seriously considering going back to the process of independent arbitration. We also understand that part of the reason you're doing that is that some reality struck home when you started talking to people who do arbitrations in this system, people like Mort Mitchnick and Paul Haeffling and Kevin Burkett, all the people who have been doing interest arbitrations over the years and doing a good job. They told you, as I understand it, not any one individual in particular, but the general comment you got was that no self-respecting arbitrator is going to want to serve on this commission. That's why you've backed off of it, and we give you credit for doing that.

We still have some concerns about what we're hearing is going to be in the amendments, however. We understand that a Ministry of Labour official is going to be able to determine who the arbitrator is in the event the parties cannot agree. I suppose that's not a departure from previous practice, provided that the Ministry of Labour official you pick is not a government hack but rather a true civil servant who is going to do his or her job in a professional, neutral, unbiased manner. As I understand it, we're told that is what's going to take place and we trust that will.

We also understand that Ministry of Labour official will be able to determine what the process of the arbitration system is going to be; in other words, whether it will be a full-blown hearing, whether it will be mediation or arbitration, or whether it will be final offer selection, where the arbitration board will choose the final offer of the employer or the final offer of the union and nothing in the middle.

We think that's a really bad idea. We think you should leave it up to the parties and leave it up to the arbitrator and the arbitration board with the two nominees to decide what the process is going to be. We're particularly concerned about the final offer selection process. If you want to have full and frank and honest and purposeful discussions at collective bargaining, you want to stay away from final offer selection, because it will discourage that kind of purposeful communication and exchange of ideas. When you're headed for arbitration, you want to be able to put forward to the arbitrator the reasons for your proposals, and so through the negotiating process you're always thinking about what's going to fly with an arbitrator. Final offer selection is going to destroy that. We understand that employers are basically saying the same thing to you and we hope the minister will get off of that.

Section 1 says words to the effect, as we understand it, that the arbitration board will have to consider the "best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers." That's going to be put together with Bill 26 as the "ability to pay" provision. A couple of things on that: First of all, it violates the International Labour Organization's committee called the Governing Body on Freedom of Association. It violates their findings and recommendations. What the International Labour Organization says is that when you have a system of binding arbitration it should be an unfettered system. It shouldn't be a system where you're hamstringing the arbitration board.

What Brother Howard Mathews said is absolutely correct — and I think this is very, very important for government members to understand and make the effort to understand, because it's not really an ideological issue, it's a factual assertion that Howard was making — that ability to pay has always been considered by interest arbitrators. However, interest arbitrators have also said that one has to consider what is going on generally in society in terms of wage settlements.

When you look at the rest of society you're also looking at the private sector, and you're looking at the private unionized sector, because we're comparing apples with apples. We're comparing public sector union members with private sector union members, generally. Arbitrators are saying "Look, these people don't have the right to strike. It's not fair that they be saddled with whatever financial situation the government decides to create for itself." As a government, you do make the decision as to whether you're going to give a tax break or not, as to whether you're going to raise revenue or not, and how you're going to spend. It's not fair to saddle hospital workers with that, and there are some home workers with that.

What is fair is to look at what is going on in society generally. Sure, you're going to have some regard to what the government's fiscal goals are, but you also have to look at the larger society. If wage increases in the private sector are coming in at zero or 1%, then that's what hospital workers are going to get. If they're coming in at 2% and 3%, hospital workers are going to probably get that. That's what you see in the history over the years, that's what you see in interest arbitration settlements. I would invite you to talk to people like Mitchnick and Haefling and Burkett and others. Sit down and talk to them. Read their decisions to see how they arrive at their final decisions.

Sometimes an interest arbitrator will say, "We're going to give you some job security in exchange for a lower wage increase than you're otherwise entitled to." We've seen that in interest arbitration awards. The fact of the matter is — and this is something the government has to understand — if hospital workers feel that the system is not working, that it's not fair, then they'll choose not to go with the system and they will strike as they did before we had HLDAA. That's why hospital workers all across the province are prepared to go on strike, if need be, in order to preserve the system that we have right now. Better do it now than have to do it a thousand times in the next 20 or 30 years. That really is the only socially responsible thing, and the only decision they could come to as responsible members of the community. It's not an easy decision for them to make but they're prepared to do it.

Just a couple of other comments: We have some concerns about the time lines that the government wants to put on the HLDAA process. We think the 60-day time limitation from the date of the appointment of the arbitrator to the date of the award is not sufficient. The process does need some streamlining, it needs some tighter time lines, but really 60 days is not enough. We're suggesting that a 60-day period would be appropriate from the date of the completion of the hearing to the date of the award, so that the arbitration board would have 60 days to make its decision and write it from the date of conclusion of the hearing. Also, that would be not a mandatory but a directory time period, so that the arbitration board would have the discretion to say, "Look, we need some additional time here."

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We're also concerned that proceedings under the Hospital Labour Disputes Arbitration Act that have already started at this time, that are in process before the amendments hit on Monday, should continue under the old system.

Just to restate something: We really urge you to take section 1 out of the bill and to go back and take the "ability to pay" part out of the old Bill 26 as well.

Just a few final comments about restructuring: I've been through, and my union has been through, about four or five processes of restructuring in the health care sector — two of them major, major hospital mergers, one of which went smoothly. It went smoothly because the government was providing fairly adequate funding at the time, the previous government. One has gone through with more difficulty because the hospitals have been under severe financial strain. We've also been through smaller mergers as well with smaller health sector workplaces, not hospital workplaces.

The biggest thing you want for a smooth restructuring is (1) adequate funding, because with adequate funding you'll get negotiated settlements without hearings, and (2) you need hospital administrators that are prepared to negotiate in good faith and don't want the moon, the stars and the whole solar system. If you have those two things, you'll have smooth restructuring. You really don't need to do a whole heck of a lot with the Ontario Labour Relations Act to get better restructuring anywhere in the labour relations system. You need (1) adequate funding and (2) hospital and municipal human resources people that are prepared to not dictate but negotiate.

Finally, seniority of non-union employees, a contentious issue: Let the labour relations board decide that issue. They used to have the power to do that prior to Bill 7. Give that back to them. It never should have been taken away in the first place. My own view on that is that when we get into mergers we usually approach the non-union group and say, "Look, get unionized now because you may not have your seniority rights respected after the merger." I think most unions do that. It just seems to me if the union approaches a non-union group and they don't want to join the union, then why the heck should they get their seniority recognized after the merger if they made the decision ahead of time not to unionize in the first place. I just leave that with you as food for thought.

Lastly, pay equity: I don't think anybody's mentioned it tonight. In terms of pay equity, this government's already had its knuckles rapped over what it did to proxy pay equity. The courts have rolled it back. I think you're running the risk of the same thing happening if you take away the pay equity safeguards that are there when there's a sale of a business.

Anyway, I think we still have some time for questions, if there are any questions.

Mr Hastings: Mr Chochla, thanks for your presentation. The thing that most interests me are your latest remarks regarding mergers, if there were adequate funding and sufficient goodwill on both sides in terms of negotia-

ting most of the issues regarding mergers or where there is the issue of conflicting representation between or among two unions for the right to represent the affected groups of employees. I would like to know what your thinking is in terms of how long you think it should take to resolve interjurisdictional merger issues, including representation.

If you look at some of the examples, and I'm sure there are lots of others, and you've probably had experience directly with issues in this context regarding the health sector, how long do you think it ought to take before these issues are resolved, given that we had, the other day, a couple of examples cited by the Ontario Hospital Association, one that goes back to the Toronto Hospital Corp merger of 1986, where there is still an issue of seniority lists being provided or not being provided by CUPE over certain types of work that had to be done? There seem to be some problems still with respect to this issue of mergers and union jurisdiction in the Thunder Bay amalgamation of hospitals. There seems to also be that issue — the details may be different — regarding McMaster-Chedoke.

I'd simply like to know from you how long should these issues take, because in the case of the Toronto Hospital merger we're looking at 11 years. In the case of Thunder Bay we're into at least one year. Should they go on forever, I guess would be my question? How do you think they ought to be resolved? OLRB pressure? Or should they end up not getting resolved at all? I'm sure you wouldn't take that approach.

Mr Chochla: There are couple of different parts to your question. First of all, with respect to how long it should take, it depends on the size of the workplace. If it's a very large hospital like Toronto East, it's going to take a long time. There are lots of issues that have to be resolved. In the case of a smaller workplace, we've had mergers of, for example, group homes, two different organizations providing group home residential facilities for the developmentally challenged. We've resolved those issues within a matter of months. So it depends.

A lot of this is driven by the employer. In Sault Ste Marie we've had a relatively smooth merger. The reason that we did was there was immediate recognition, right from the word go, by the human resources person in the hospital that the merger was going to be very stressful for the membership, and I can tell you when it's stressful on the membership, its stressful on the union leadership because they have to try to settle everybody down and make it go as smoothly as you can. We have a leadership role with our members that can very much assist in the merger process. So it depends very much on human resources people.

But with your government what you've done is you put a lot of pressure, in fairness to human resources people, you've put a lot of pressure on your human resources people because they don't have the money to work with to resolve some of these issues. Money is important when you're trying to sort out, for example, the question of two people doing the same job earning different wage rates, because at one time they were under two different

collective agreements. Realistically, you've got to bring them up to the same rate.

But the stress that your government is putting hospitals under is making those kinds of issues very difficult to resolve. They're making issues like collective bargaining language, whether you have contracting out protection or not, very difficult to resolve, because the hospitals are saying, "Hey, we're getting pushed by Mike Harris and the gang, and we can't give you what we could have given you under Peterson or Rae." So money is probably the number one factor, and the attitude of the human resources people is the second factor.

It may be that ten years is what's required, but let me just say this: You go into collective bargaining every three or four years in the hospital system. It's there in the interest arbitration, in the collective bargaining system, that you resolve these issues.

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Mr Patten: Mr Chochla, thank you for your presentation. I wish we could do this in person. Hopefully next time we can.

Mr Chochla: I hope so too.

Mr Patten: I'd like to link three things that you made in your presentation which I think are important. First, you began by sharing your commitment to the quality of health care. Then you went on to talk about the present context and then you ended up your presentation by saying that there need to be two factors that exist in order to have a fruitful resolution to differences, and those were adequate funding and negotiating in good faith. I would say to you that both of those aspects are in trouble.

The reason I say that is because on the adequate funding issue, there was a report released today by the OHA, done by an independent body — it was a CIBC report — which showed that at the moment, hospitals have been cut back and quality of care is suffering even though, as you know, there's a further requirement — even though it's deferred for a 7% reduction, there's been a 5%, 6% reduction etc, regardless of what may happen under the restructuring, so that comes out at the moment where there's a lot of pressure on quality.

The second one is negotiating in good faith. When the employers get a tool that is very attractive when they're in deep trouble because they're contingent upon being economically dependent upon the provincial government, in some cases they feel, "We don't want to do this," but it's going to be mighty attractive for them to use that tool.

Mr Chochla: Absolutely. Your second point is very important and it's absolutely critical. We just had a job posting grievance where we were into a grievance arbitration. It was very clear that the solution to this job posting issue was to negotiate some retraining for existing employees. This was with the city of Thunder Bay. The arbitrator was helping to mediate it, and he said, "Why can't you negotiate some retraining?" I said to him: "The reason we can't negotiate retraining is we haven't had collective bargaining with the city for about four or five years. We haven't had collective bargaining because of things like the Social Contract Act. We haven't had

collective bargaining because of the fear that our employees had under Bill 26 and the fear that our employees have right now in dealing with Bill 136."

Employers are basically saying: "We're not going to bargain. Push everything to arbitration, and if you push us to arbitration, we're going to ask for a stripping of your collective agreements." That's a real fear that we have. Employers in the public sector don't want to bargain and negotiate with us. So what have we been doing? We've been rolling over our collective agreements with public sector employers and not resolving issues.

Mr Patten: Thank you for your comments, sir.

Mr Christopherson: Thank you, Glen, for your presentation. You commented at the very beginning that you didn't have any time to prepare. Let me tell you that we've heard that from virtually every presenter, including those that traditionally have been supportive of this government's agenda.

Interjection.

Mr Christopherson: My colleague tells me 22 out of 26 are stating the same thing. Once you've got that many people from both sides of the equation, clearly there's a message there.

You also mentioned turning back the clock with Bill 136. I think you'll agree we've seen that with everything the government has done. Bill 7, the brand-new Ontario Labour Relations Act, where we didn't have one minute of public hearings, took us back 50 years. Bill 49 was to take away the Employment Standards Act for those people who aren't fortunate enough to have a collective agreement to protect them. The "bully bill," the omnibus Bill 26, of course took away rights in a huge way and set up a lot of what's happening these days. Bill 15 took away the rights of workers to have half the seats on the board of workers' comp. Bill 84 took away rights and betrayed firefighters. Bill 99 is a vicious piece of legislation taking away \$15 billion from injured workers. They killed the Workplace Health and Safety Agency, and now we've got Bill 136, and that's not the whole list.

So you're right. The whole idea is to turn back the clock as far as possible and take us back to the point where our labour laws and our rights and protections are equivalent to those of Arkansas and South Carolina and remove any kind of protection we ever had, and that's going across the board. You can do that in every part of our economy and our society.

I'm getting to a question on a third matter, but secondly, I want to compliment you for raising the pay equity issue. This is crucial. We heard from Carol Butler at 3:30 this afternoon, and it's interesting. She has a case that goes back to the date of January 1, 1988, and they're making their clauses in Bill 136 taking away pay equity rights retroactive to January 1, 1988. The parliamentary assistant told me earlier today that's just a coincidence.

My question to you is, you quoted a well-known arbitrator as saying that no self-respecting arbitrator would accept one of the new commission positions. Would you expand on that? Why wouldn't someone accept one of

these government jobs that traditionally a lot of people would like to have?

Mr Chochla: I wouldn't say a single arbitrator said that, but what we're hearing is that that's the general tone of what arbitrators have told the government.

The reason is that with the way the Dispute Resolution Commission was set up, an arbitrator who took a position on the commission was prohibited by the bill from doing independent arbitrations, for one thing. So it would mean the end of his or her private arbitration business for the term of his or her duration on the commission.

Secondly, it's not an arbitration system any more under the Dispute Resolution Commission. It's a process whereby what you're doing is fettered very directly by the government legislation. Any self-respecting arbitrator is not going to want to have his or her discretion fettered like that. The attraction of doing arbitration is that you're helping the parties come to a meaningful resolution. You're deciding a meaningful resolution based on all the evidence that you heard at the hearing. To have your discretion fettered by government legislation so tightly, what's the point in even being an arbitrator? You might as well have cabinet decide what's going to go into the collective agreement, and that's what the effect of the Dispute Resolution Commission was.

Mr Christopherson: Wouldn't that make you feel warm and fuzzy, to know Mike Harris's golf buddies are writing your collective agreements.

The Chair: Now, Mr Christopherson.

Mr Chochla: Absolutely.

The Chair: Mr Chochla, on behalf of all the members of the committee, I want to thank you for coming before us tonight with your advice. We appreciate it.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION, REGION 7

The Chair: Our final presenter tonight, again live by way of teleconferencing from Thunder Bay, is a representative from OPSEU, Region 7. Good evening and welcome.

Ms Pat Shearer: My name is Pat Shearer. I'm president of Local 736 here in Thunder Bay. I realize you've had a very rushed schedule for these hearings and I thank you for finding the time to let OPSEU present our views on Bill 136.

OPSEU represents 100,000 members in the public sector, including the 65,000 members who are directly employed by this government of Ontario. All of them can be affected by this legislation. We have been promised that the government will introduce a host of amendments addressing our concerns, and from what we have been told, Bill 136 will be completely overhauled. Unfortunately, we haven't seen these amendments. That puts us in a very absurd position of making a presentation based on an unamended bill and a series of hasty press releases from the Minister of Labour.

I would also note that the government has broken its commitment to hold province-wide public hearings on this

legislation. Rushing Bill 136 through with as little debate as possible will not make this bitter pill easier to swallow.

That said, we have come a long way since June 3. Bill 136 as originally presented would have gutted our system of labour relations in this province. Once again, Mike Harris has singled out our public sector workers as the first victims in his assault on the rights of the labour movement. Once again public sector workers are seen as obstacles rather than partners in the restructuring of the public services they provide. Once again Mike Harris has underestimated the public workers and their unions.

Mike Harris tried to undermine the Ontario Labour Relations Board by creating a Dispute Resolution Commission as its own private tribunal for deciding public sector disputes. The Tory government tried to strip the OLRB's right to adjudicate over restructuring by transferring that right to the new Labour Relations Transition Commission. Mike Harris tried to stack these two new tribunals with his own handpicked appointees. His government tried to strip public sector workers of their right to strike. Finally, Mike tried to prevent OPSEU from representing its own members after the downloading occurs.

They could have saved Ontario a lot of time and worry had they recognized the contribution that the labour movement can make. These changes simply had to be made, and we are pleased that you finally recognize this.

We all have additional concerns, and I will focus on the issues which are particular to the crown employees. Our written presentation covers our wider issues, and others will also address them.

The government is singling out the OPS for discriminatory treatment. The bill amends the Employment Standards Act to change the severance obligations of the crown. Now if the OPS or the crown employees' jobs are transferred to another employer, the government must pay severance to the affected employees, but Bill 136 transfers the obligation to the new employer. This means that the payouts will be lower and will not be made until the employee leaves the new employer.

Bill 136 continues the bargaining rights of the bargaining agents in the same bargaining unit except for the crown employees. Employees who were previously crown employees would not be included in this new bargaining unit.

The bill effectively decertifies the unions representing the crown employees who are transferred to a successor employer. This imposes second-class status on our members, violating their rights of association under the Charter of Rights. Our members lose their collective agreements when they are transferred. They lose their representation rights and are vulnerable to the whims of the successor employers.

Our members are treated as non-union employees and are included in the 40% threshold that triggers a non-union option on a ballot. Crown employees deserve exactly the same rights that all the other union members in the province have. Counting former crown employees as

non-union puts them and their union in a bizarre and unfair situation.

The OPS collective agreement requires the government to make reasonable efforts to find employment for OPSEU members whose work is transferred out of the public service. This employment must have wages and terms and conditions of work as similar as possible to those of the OPS. This collective agreement was signed by both parties after a five-week strike, and it is not an obligation we take lightly.

Bill 136 fails to acknowledge this responsibility; in fact, it is in conflict with it. When these employees are transferred out of the OPS, they move out with no collective agreement and no union, and they lack the ability to enforce these reasonable efforts, assuming they have been made. They are extremely vulnerable to the decisions of the successor employer, despite the contractual obligation they have made to them as their employer.

Over the last four months, Mike Harris and his Common Sense Revolutionaries have seen what the labour movement, if provoked, can do. We are a powerful obstacle standing in the way of his leaner, meaner Ontario. We are united in our opposition to the attempt to strip our members of their hard-won rights. In particular, we will stand by our brothers and sisters in the education sector if significant changes are not made to Bill 160 and the so-called Education Quality Improvement Act. Mike Harris should be told that divide and conquer will not work, not with this labour movement, not after all we've been through.

Finally, I would like to reflect on this government and its approach to labour relations. It is increasingly clear

that the Common Sense Revolution is intended to turn back the clock to restore the working conditions of the last century. To those who may want to return to exploitation of workers and the dramatic disparities of the past, I want to say this: Be prepared for a return to trade union tactics of the past.

Since the Second World War, our labour relations system has been based on stability. In exchange for the rights and legal protections we have enjoyed as workers and trade unionists, we have agreed to set limits on our ability to strike back against our employers. The labour movement presently operates with a highly complex web of laws, regulations and jurisprudence. It dictates what we can do as workers and when we can do it.

If you continue to attack the workers in the public or private sector, you will continue to undermine the current labour relations climate. There will come a point when we will say, "No more." We will continue to mobilize our members against this government and its anti-people agenda, and we will be forced to act outside the law. We will do so to protect our members and their rights. Our slogan at OPSEU is: Whatever It Takes. I urge the government members of this committee to seriously consider this slogan. We mean it.

The Chair: Excuse me. Did you want to allow time for questions?

Ms Shearer: No, thank you. I didn't come to debate; I just came to deliver a statement.

The Chair: Okay, that's fine. Thank you, then.

All right, colleagues. On that note, we stand adjourned. We'll reconvene tomorrow morning at 9 o'clock.

The committee adjourned at 2115.

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Standing committee on resources development

Public Sector Transition
Stability Act, 1997

Comité permanent du développement des ressources

Loi de 1997 visant à assurer
la stabilité au cours de la transition
dans le secteur public

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Friday 26 September 1997

Vendredi 26 septembre 1997

*The committee met at 0907 in room 151.*PUBLIC SECTOR TRANSITION
STABILITY ACT, 1997LOI DE 1997
VISANT À ASSURER LA STABILITÉ
AU COURS DE LA TRANSITION
DANS LE SECTEUR PUBLIC

Consideration of Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act / Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.

The Chair (Mrs Brenda Elliott): Good morning. The standing committee on resources development is called to order for the purpose of hearing witnesses presenting on Bill 136, the Public Sector Transition Stability Act.

ONTARIO PUBLIC SCHOOL
TEACHERS' FEDERATION

Our first representatives this morning come from the Ontario Public School Teachers' Federation. Good morning and welcome. Please make yourselves comfortable. As I'm sure you know, you have 30 minutes for presentation time. If you would please introduce yourselves for the Hansard record first, you can begin any time.

Ms Phyllis Benedict: Good morning, Chairperson. My name is Phyllis Benedict. I'm the president of the Ontario Public School Teachers' Federation. With me this morning I have the first vice-president, Stan Korolnek; my general secretary, David Lennox; and research officer, Christine Brown.

The OPSTF has 32,000 members who work in the public elementary schools of Ontario as occasional teachers, educational and professional support personnel and contract teachers. Our membership includes teachers, librarian technicians, educational assistants, itinerant

music instructors, school support counsellors, adult basic education instructors and several other groups. Our members are proud of what they do and proud of the high quality of educational services available to the students in the public school system with whom they work.

Because they care about quality education, they are alarmed at the way this government has gone about introducing changes to the legislation surrounding labour relations for the upcoming transition to the amalgamated school boards. On September 16, the government invoked closure on Bill 136 and announced that there would only be four days of hearings, and all of them in Toronto. This would appear to contradict the minister's earlier statement, which was: "I commit to you that there will be full public hearings. We will travel the province, we will be in Toronto and we will listen." We feel it has come up somewhat short in light of the subsequent events.

What is even more disturbing is the shape which this already truncated process has taken in light of the minister's recent announcements. Five days before the hearings were to begin, the minister suddenly rose in the House with news of major amendments to be tabled to Bill 136. So we ask, what do the amendments look like? We do not know, for we had been given to believe that the wording will not be tabled until after the hearing process has concluded. It is our experience and the experience of those with whom we have consulted that this is unprecedented.

Will the amendments meet the objections which labour has voiced to the provisions of Bill 136? In the minister's view, yes. The references to maintaining the right to strike and the elimination of the Dispute Resolution Commission and the Labour Relations Transition Commission are most welcome. However, we cannot assess the impact these changes will have on the transition process until we have seen the actual wording of the amendments. We cannot analyse a legal text which is written in invisible ink. The present process forces unions and employer groups alike to take up their crystal balls, turn the globes from side to side in their hands and try to discern what flaws and facets the glass may contain.

While we are genuine in our appreciation of the work of all members of this committee, we believe the government has made a mockery of this process. The Ontario Public School Teachers' Federation is obligated to monitor, analyse and comment upon all legislative developments which may affect its members. We are unable to do

so in the present case, so we are here this morning to present to you our arguments.

With the passage of Bill 104, the Fewer School Boards Act, our employees also come into the potential for widespread disruption, which we will see in both the public sector as a whole and the corner which our employees who work for school boards occupy. Indeed, the disruption has already begun, as employees and management alike find more and more of their time engaged in sorting through large and small issues attendant upon the all-too-imminent changeover.

OPSTF would therefore be the last to argue that this government should not turn its mind to measures to assist those in workplaces where these transitions are to be made. In the school sector, measures should be made to have the least possible disruption in the delivery of quality educational services to students, a productive and enthusiastic workforce ready to take on the challenge of new structures and a sensible use of the public purse.

As any specialist can attest, the labour relations regime in any given workplace is an entity characterized by complex human relationships, competing interests and a subtle but none the less real sense of precariousness. Some labour relations situations are more stable than others, if stability is defined as a low incidence of strikes, grievances and other forms of industrial conflict. By this measure, labour relations in public elementary schools, where OPSTF members work, are remarkably stable. In fact, among the 65 OPSTF bargaining units which fall under the purview of Bill 136 there has never been a strike.

Nevertheless, OPSTF members value the right to strike. Contrary to the perception fostered by the Financial Post, public sector unions really do see the strike tool as a weapon of last resort. It is a cornerstone of those societies with any claim to calling themselves democracies. Remove this stone and the integrity of the structure is compromised.

The minister has indicated that free collective bargaining should remain the mechanism for the settling of contract disputes, rather than the creation of a tribunal whose impartiality may very well be suspect. We applaud these intentions. Furthermore, the minister has stated that upon restructuring, "the first-contract provisions of the Labour Relations Act would apply."

There are rumours that certain fetters may be placed on either arbitrators or the arbitration process. It is our view that the previous system of genuinely independent arbitration has served this province well. What makes any system of third-party intervention work is the fact that both sides recognize its legitimacy. However unhappy one or the other party may be with a particular outcome, both, of necessity, buy into the result. They do so because there is at least a perception that the process is fair, that it allows for input and the presentation of one's case, for the ability to fully know the case being presented by the other side, for a transparent and stable process and for adjudicators who, regardless of their leanings, are seen to retain minds open to the power of rational argument. We await legislation which addresses these concerns.

We welcome the recognition that the Ontario Labour Relations Board, with its broad and respected spectrum of panel members and its decades of expertise in the resolving of labour relations disputes, is indeed the obvious venue for the coming amalgamation exercises.

The fact that appointees to the OLRB hail from both sides of the great labour divide has been an important component in the public confidence which the board enjoys. The widespread perception that board members are able to make their decisions independently and without fear of reprisal is key to our shared understanding of the nature of justice. The alternative to a system which enjoys public confidence is chaos and a lack of trust in public institutions.

We would also like to point out that the labour board's workload is about to increase dramatically and that its funding has been cut substantially over the past few years. This is not a happy combination, given the government's desired outcome of a smooth and expeditious amalgamation process.

There are rumours that the labour board may be offered new powers and procedures to assist it in its new task. We would hope that any such initiatives would reflect the need to maintain the spirit of impartiality, due process and fairness which has served the province in the past. We await legislation which addresses these concerns.

In the area of seniority, one of the reasons why seniority is often the last item to be resolved at the bargaining table is the amount of care, creative thinking and attention to detail and nuance required in the crafting of appropriate language. No item in any collective agreement is more bargaining-unit specific than this one. Issues such as breaks in service, bridging provisions, the rights of part-time and probationary employees, the impact of changes in job classifications and the intricacies of bumping are but a few which must be given careful thought when seniority provisions are negotiated.

We would like to make a general comment, however, that given the intricacies of this question, cookie-cutter solutions will just not work. Unions have lengthy experience in sorting out these disputes on their own, as they arise regularly within bargaining units. Perhaps the expertise of the parties directly affected should be drawn upon in the first instance. Again, we will await legislation which addresses these concerns.

On pay equity and the Employment Standards Acts, the ministers announcement the other day that amendments are being considered in light of the recent judicial proceedings is a welcome one.

In conclusion, I know normally such presentations end with a few recommendations on the specifics of the legislation, but it's clearly out of the question for us to do so here today. Unions are often accused of being greedy and demanding, so we will fulfil the stereotype by concluding with a list of items which OPSTF members want.

We want the right to continue to offer the highest possible level of educational services for children in the public elementary schools of Ontario. We want minimal levels of disruption to our working lives as the government

undertakes to reshape school boards. We want clean, safe schools with reasonable class sizes. We want the resources to enable us to do our important jobs properly. We want decisions about collective bargaining to be made in a reasonable and democratic manner. We want any third-party decision-makers who are brought in to be fair and impartial. Finally, we want future legislation to be given to us in written form.

The Chair: Thank you very much. You have given us lots of time for questions, about six minutes per caucus. We'll begin with the NDP caucus.

Mr David Christopherson (Hamilton Centre): Thank you very much for your presentation. I think I'd like to begin where you left off and reiterate, because according to the government members and certain other entities in society, you're all evil and you want to rob the taxpayer blind so you can have as cushy a life as possible, with total disregard for anything else. It's that bad when you listen to some of them sometimes, both publicly and privately.

You state in concluding — this is the radical agenda you're demanding of this government: "...the right to continue to offer the highest possible level of educational services for children in the public elementary schools of Ontario"; you want "minimal levels of disruption" to your "working lives as the government undertakes to reshape school boards"; you want "clean, safe schools with reasonable class sizes." How dare you? "We want the resources to enable us to do our important jobs properly. We want decisions about collective bargaining to be made in a reasonable and democratic manner," and you want "any third-party decision-makers who are brought in to be fair and impartial."

There's got to be more. If you listen to the government, there's got to be more that you're demanding than just this. It can't be that straightforward, can it?

0920

Ms Benedict: Yes, Mr Christopherson, it can be that straightforward. In our federation we have 57 bargaining units that will be affected by this bill, 57 bargaining units that do the most marvellous jobs within classrooms and outside classrooms. They're doing so in a manner that does not deserve to be disrupted. They need to know they have stability and they can go in and do it. Our list is very specific.

You're right: We've been challenged that our education in Ontario is at the caboose of the education train in Canada. I put to you that it's not. We're in the lead in very many cases and we will continue to be in the lead. We need the stability. The children in this province deserve that and their parents deserve that.

Mr Christopherson: You know, it's funny: Anybody who's been listening to these hearings, if they take a look at the submissions of just about every entity that represents public sector workers, a key part of their presentation is the importance they place on the service they provide, whether it's bus drivers or hospital workers or municipal workers, across the board; and we're going to hear from firefighters pretty soon, and I can guarantee you

they're going to put up front the issue of their service to the public. That's what's so frustrating about why this government is doing what it's doing, what it attempted to do with 136, and God knows what's still on the books.

Given the fact that the government is claiming it is backing off because it's listening, why do you think the government introduced 136 in the first place, the way it was?

Ms Benedict: I would be the last person here to presuppose why this government does anything it does. We're questioning Bill 136; we're also questioning quite deeply the bill that was introduced on Monday. We can't figure that one out either other than that it looks to create chaos, to continue to create instability in this province. Piece of legislation after piece of legislation continually sets our public on edge, sets employees on edge, and in the education sector the impact, as we can see, is in the classroom. We just cannot allow that to happen.

Mr Christopherson: We've always maintained that John Snobelen actually should have been thrown out of cabinet right near the beginning for giving away cabinet secrets when he said he needed to create a phoney crisis. Not only has he managed to do that, but just about every other minister who attempts to do anything always puts up front: "We've got major problems. We've got a crisis on our hands and that's why we have to do what we're doing." They never bother to explain why it is what they're doing makes whatever the situation is worse. They just say the fact that they're doing something is supposed to be good in and of itself.

How much input did you have beforehand? The government says the reason the minister, after she lit the fuse of the time allocation on the Wednesday, got up on Thursday was because they were listening. We've suggested that had they met with the parties ahead of time, before they dropped Bill 136 on the floor of the Legislature, we could have avoided all this chaos, all this crisis, everything that has brought us to the brink of social disaster, quite frankly. Therefore, the obvious question is, did you have a chance to have input into the development of 136?

Ms Benedict: OPSTF has had as much chance to have input into Bill 136 as we have in any other piece that affects the educational sector. I challenge any minister who brings forward that they've had a full consultation process, because we haven't seen it and we haven't been part of it.

Mr Christopherson: I haven't found a labour leader yet who's had an opportunity.

Thank you very much for your presentation. I appreciate it.

The Chair: We'll move now to the government caucus.

Mr Bart Maves (Niagara Falls): Thank you very much for your presentation. I have several points and a couple of questions.

You talked about disruption in the amalgamation exercise and that the disruption had already begun, "as employees and management alike find more and more of their time engaged in sorting through the large and small issues

attendant upon the all-too-imminent changeover." I would say that any change, whether our government undertook the reduction of school boards or a different party did, it's obvious that when you have a change like that, you're going to have disruptions. I don't think we would deny that's occurring. One of the major reasons for having this legislation in the first place is to try to help mitigate some of those disruptions.

I wonder if I could just ask you a couple of quick questions. We talked about how school board and municipal employees would go back to having the full right to strike they had before but that they would be covered by first-contract arbitration. I wondered if, when a new employer and bargaining unit come together, you support that existing arbitration process.

Ms Benedict: No.

Mr David Lennox: If I could just expand upon that, the problem you have is a difference between a group that is amalgamating, that needs to consolidate some collective agreements, and first-contract agreements. There are very distinct differences in this. I go back to 1969, when we had the amalgamation of school boards. Having been a negotiator of the first consolidated collective agreement for the Essex County Board of Education, we had about 28 collective agreements to consolidate. We didn't need first-contract arbitration. We sat down with the school boards and we put them side by side. We didn't get the best of all worlds, but we got a new collective agreement.

The difference here with regard to first-contract arbitration is that you have two or three strings out on the end of first-contract arbitration that leave some interesting power disputes. I think if we had left it straight to school boards and their employees to sort out their new collective agreement, you wouldn't have the anxiety that first-contract arbitration leaves you.

Mr Maves: There's quite a threshold to even get to first-contract arbitration, that there must be collective bargaining. The act, prior to any announced changes and even since announced changes, requires a great deal of collective bargaining before you could ever get to that process. That collective bargaining is still going to occur, in fact has to occur, before you'd ever get to that arbitration process.

In your experience with arbitration, do you believe that expedited choice of procedures, expedition of arbitration, needs to occur in some cases, and do you believe that the increased choice of procedures for arbitrators is a good idea? The police association the other day mentioned it's particularly pleased with the idea of mediation arbitration, that it would help disputes. Do you have any thoughts on that?

Ms Benedict: I would like to refer that question to our research officer, Ms Brown.

Ms Christine Brown: Not to belabour the point, but I think part of the difficulty is that we don't know exactly what you're looking at in terms of expedited arbitration. Expedited arbitration obviously means it's done quickly, and there is a certain logic to that, but until we see some concrete details of how that process will look, whether or

not the arbitrators will be fettered, whether or not there will be the kinds of procedural restraints there were with the Dispute Resolution Commission or anything approaching that, I don't think we can give a thumbs up or a thumbs down to the idea. We're in a vacuum here.

Mr Maves: For instance, the police like the idea of mediation arbitration instead of just having a hearing process, almost a courtroom process on arbitration, that now they could mediate a lot of parts of their dispute beforehand. They thought it was going to be very valuable. That would be part of the choice of procedures that would be added.

Ms Brown: In general, OPSTF has a lot of experience working with mediators, and we're not closed to the process of mediation. It can often be very useful.

0930

Mr Maves: I appreciate your comment, "We welcome the recognition that the Ontario Labour Relations Board, with its broad and respected spectrum of panel members and its decades of expertise in the resolving of labour relations disputes, is indeed the obvious venue for the coming amalgamation exercises." We appreciate that recognition.

You also said further down, though, "We would also like to point out that the labour board's workload is about to increase dramatically and that its funding has been cut substantially over the past few years." I want to assure you that the minister will be addressing this issue with the OLRB.

Finally, you talk in your brief about seniority. We've had a few presenters says that non-union employees shouldn't have seniority recognition. Do you take that view?

Ms Benedict: I'm sorry, would you repeat it?

Mr Maves: A few presenters have said they don't believe that non-union employees should have seniority recognition if they come together with unionized employees in the new bargaining unit. Do you take that view or do you believe they should have seniority recognition?

Ms Benedict: Looking from an educational perspective, with Bill 104 and the amalgamation of school boards, we are going to be facing that. Some of the groups that are coming together, we have non-unionized and unionized in various parts of the province. It's obviously something where we would move to unionize the non-unionized groups within OPSTF. Seniority rights, regardless, are going to be a horrendous problem in some places when you have so many existing ways of dealing with seniority. To come up with a reasonable solution is going to be quite difficult.

The Chair: We'll move now to Mr Patten from the official opposition.

Mr Richard Patten (Ottawa Centre): Good morning. What do you see as being the relationship between Bill 136 and Bill 160?

Ms Benedict: I could give you a very glib answer, sir, but I won't, because it's so serious in nature. We mentioned throughout our brief here this morning that what we want is stability. That's what the students of this province

deserve; that's what the parents of this province deserve. The combination of Bills 136 and 160 is guaranteeing the minister's premonition of a crisis.

Mr Patten: Do you think both bills begin with a negative supposition of the employees?

Ms Benedict: My answer would be yes. When you are constantly being denigrated as a profession, that the work you do in the schools is just not good enough and you're told that repeatedly, and then you're faced with two pieces of legislation that in the government's minds confirm that, it's very difficult because you are always in defence of your profession and the fine job you're doing in the schools.

Mr Patten: I share that with you. It seems to me that many of these pieces of legislation are designed to find different avenues to take money back or to limit the transfers or expenditures of the government. I think this is one of the avenues that provide an employer, or a school board in your case, with another tool to try to balance the budget.

A number of representatives who made presentations felt that the government was in a conflict of interest because it was both controlling the purse-strings and calling the shot, and still adding the criteria to be applied if measures move to arbitration, that ability to pay and the capacity and authority by arbitrators to recommend the extent of service cutbacks, which to me says they will be fettered arbitrators, regardless of whether they're with the OLRB or not; or in the case of some of the essential workers, police or firefighters or hospital workers, those arbitration bodies will have new requirements they have to consider that they didn't have to consider before.

If you're worried about fettered arbitrators, what do you see in terms of what the minister has said, or what do you fear she might do that she said she might not do?

Ms Benedict: We're never quite sure, with this government, what they're going to do. Half the time the things they say they're going to do they end up not doing anyway because someone puts some pressure on them and they flip back on the decision. We also question the research. To give a fair answer to that I will refer to my general secretary.

Mr Lennox: Any time you're not using impartial arbitrators — we're most familiar with the process we used under the Education Relations Commission to get arbitrators for our teachers. We've also used mediation arbitration under the OLRA. When you walked into that room with an impartial arbitrator, you knew you were going to find some wins, some losses and some relooking at things.

Our concern here is that the minute you start into any type of use of a panel that's subjective, that is government-appointed or government friends, they come with a preconception of what the goal has to be. When you have the criteria and they are set out in the School Board and Teachers Collective Negotiations Act as set out in Bill 26 on the ability to pay, then we know you've got your hands tied going in. To not even have an impartial arbitrator will make a circled mockery out of it, because they say you'll

have the right to arbitrators, and here's a nice process, but it never gets any integrity into the process.

The Chair: Very quickly.

Mr Patten: I have two questions. I'll go to one.

The minister keeps referring to, "Ontario is overspending by \$1 billion in education." While he never answers the question — I'm amazed that interviewers on television who do the news can't pinpoint the minister when he doesn't answer the question, because they could go back to him. It's hard to even nail him down in question period. He says we overspend by \$1 billion. Do you agree with that?

Ms Benedict: Having been part of the discussion group with the ministry officials when they came in to see if we could have some agreement prior to Bill 160 coming forward, the areas they are suggesting they can get their \$1 billion are areas where this education system cannot take further cuts. If you look at all aspects of it, what it does is go back to reduction of services for our students.

It places our teachers and our educational workers in a very difficult situation. They are delivering service and delivering education now in difficult situations due to ongoing cuts that this government has done over and over again. To take out a further \$1 billion is just absolutely deplorable. For them to suggest that we continue to take some part in the cuts for their \$1 billion on the backs of other unionized workers in our schools — I go back to the safe and clean schools, because that won't happen when they're considering going to outsourcing. The safety of our children is a primary question in our minds, when you have someone you don't know coming in to clean your buildings on a basis where there are no checks and balances.

Mr Patten: I have a document that disputes that \$1 billion. I'll be happy to share it with you.

The Chair: Thank you very much, on behalf of all the members of the committee. We appreciate your taking the time to come before us with your views this morning.

0940

TERRY GODWIN

The Chair: I'd like to call now on Mr Terry Godwin. Good morning and welcome to the committee.

Mr Terry Godwin: Good morning. I'm sorry, I don't have a printed text. I was notified last night that I was invited to speak, so I'm here somewhat bleary-eyed after putting a little presentation together.

I want to thank you very much for inviting me to speak on Bill 136. For the purpose of my conversation with you, I'm making a few assumptions. I'm assuming that the government is well-meaning and truly believes that Bill 136 is good for Ontario, and I'm assuming that those who are protesting this legislation are equally well-meaning. I'm assuming that the government hasn't sprouted horns and that its critics aren't naïve people who are "out of step with global realities." I'm assuming that a government which is eroding democracy in Ontario is doing so because it thinks its actions are necessary in the present

economic circumstances. I'm assuming that the members of the government take no joy in slashing assistance to the needy and to the disadvantaged. I'm going to assume that the government is making these changes because of globalization, because it believes that for Ontario to stay competitive in a global economy, Ontario must offer multinational businesses and those local businesses which compete with multinationals a favourable economic climate.

I shall take a look at the assumptions which underlie the belief that these drastic changes are necessary. Then I shall show how, in playing by the multinationals' rules, Ontario is not setting itself up to reap future prosperity but future chaos. Last, I'm going to suggest that this dance we do, this passionate conflict of debate, is absolutely necessary to wake up the populace of Ontario if we are not all to become indentured to economic institutions, the multinationals that care only for profit and nothing for our society.

In this excerpt from Tony Clarke's book, we can set the stage. Here is a brief look at these global economic circumstances in which Ontario finds itself and the direction in which they are taking us.

"In this new global economy, a massive transfer of power has been taking place out of the hands of the nation-states and into the hands of the transnational corporations. To compete for transnational investment, nation-states and governments" — including Canada — "have surrendered some of their key sovereign powers and strategic tools required to improve the economic, social and environmental living conditions of their own citizens. This power grab has been carried out through a series of 'structural adjustment programs' promoted by big business, including the deregulation of foreign investment and national economies, the privatization of crown corporations and public utilities and services, the negotiation and implementation of free trade regimens, the reduction of public deficits through massive social spending cuts, the erosion of national controls over monetary policy and the reduction of public revenues through lower corporate taxes and higher interest rates.

"Through the application of these structural adjustment programs, the role and powers of governments and citizens in a liberal democracy have been altered radically. It is no longer the prime role of governments to intervene in the marketplace on behalf of the public interest in order, for example, to stimulate job creation, redistribute wealth through social programs or ensure that industrial production meets environmental standards. Instead, the prime role of government is to serve the interests of big business by providing a favourable climate for transnational investment through lower corporate taxes, lower wages, lower social spending and lower environmental standards.

"As a result, the basic democratic rights of citizens to adequate food, clothing and shelter, or education, employment and health care, or a safe environment, social equity and decent public services are either being hijacked or rapidly eroded."

Is this the stage for Bill 136? Let me read a few lines from John Sewell's analysis of the role of the DRC in Bill 136. It's only about two sentences.

"Among other things, these factors put the DRC in the position of forcing municipal employees to accept the lowest wages paid in the private sector for comparable work. These principles will be used not to create labour stability, but to drive down wages in an insane race for the bottom, making all of our municipalities poorer places."

Certainly, this is a draconian piece of legislation, but do we have any choice but to fall in line with the rest of the global marketplace? The following selection is a look at the nature of this global economy. These are two short sections from John Ralston Saul's book *The Doubter's Companion*, under the heading which defines "global economy."

"Global economy: The modern form of ideology is economic determinism. It is presented as if neither the presenter, a coalition of interest groups, nor the receiver, the public, have any active role to play, because a global economy is going to arrive whether they like it or not. In this way, a complete ideological policy can be advanced without any discussion of its implications or any admission that it is an ideology.

"The global economy is a 19th-century concept dressed up in high-tech in posing as the future. The fundamental question which this raises is, how can the developed nations protect a century's worth of social progress unless they agree to cooperate in regulating both the transnational corporations and the international money markets?

"Passive acceptance of the global economy as an unregulated international demolition crew would mean a return to the past. Any use of the word 'future' as a concept suggesting economic advancement would require the consolidation of our social and economic progress over the last century by concentrating on new international agreements.

"So far, the Japanese and Europeans have treated the global economy as an ideological screen put forward by foreign special interests. They have therefore resisted its tenets. The American academic community, however, has tended to fall in line with its own corporate structure. As a result, the words 'global economy' are more often than not used by Americans as if they represented a disinterested truth. This passivity is mimicked in countries such as Canada and Britain, where the influence of American acolytes is strong.

"So long as the ideology disguised in the words 'global economy' has an institutional base inside western civilization, any sensible resistance will be undermined. That is why the 19th-century disorder promised by globalization seems to be inevitable, when in practical terms it is not."

John Ralston Saul is saying that perhaps this tidal wave of economic submission to the multinationals is not so inevitable. He suggests that societies must realize they are dealing with business entities whose overriding mandate is profit, not social welfare or the common good. This is okay. It's up to the people who work and play in these societies to direct their governments as to which param-

ters are necessary for society to function in a manner which will create caring and decent cultures.

Mr Saul indicates that we, the members of our society, must place controls, restrictions and regulations on transnational corporations and the international money markets. If we do not, we become slave to business entities whose overriding mandate is profit, not social welfare.

Let's take a closer look at transnationals. Again I read from John Ralston Saul's book.

"Transnational corporations": The seat of contemporary feudalism.

"The rational corporatist assumption of western education makes it difficult to face up to the return of feudalism. The technocrats, with their mechanistic ways, see all structural movements as inevitable. Structural inevitability is their replacement for the concept of the public wheel.

"Most of those who reject this mechanistic determinism see the transnationals as villains in an international plot. If it were only that simple.

"These complex structures resemble centipedes, with sections spread around the world. They have an internal logic tied to lower costs and higher sales. Their sections die, prosper, move or divide according to that logic. Local populations are of no concern. Nor are the local chapters of the serving technocracy. As with the medieval social order, it is the order which matters, not any particular holders of specific titles.

"The transnational has no direction or purpose. That is why it can benefit or destroy individual societies with equal disinterest. The whole system is a negation of the idea of civilization. Humanism and a citizen-based equilibrium are impossible in such circumstances."

0950

Ontario will play this economic development game of the transnationals only so long as it can offer lower and lower wages and higher and higher profits to these economic entities. That is, unless and until the citizens of Ontario demand with the citizens of this country that restrictions be placed on the devastating operations of these profit-driven engines.

How can we hope to exert influence over these transnationals? Again, I read from Mr Saul's book:

"Theoretically, the counterweight to the abstract power of the transnationals should be a large national group. This may help, but not if used in isolation. International economic feudalism is based on the constant ability to shift investments or production from one national area to another in an ongoing auction for more favourable conditions. The ultimate weapon is the threat to decamp each time there is discussion of wage levels, job security, health standards, environmental standards or any standards at all relating to people and place.

"The feudal economy's power lies therefore in the patterns of production. The power of the concrete national groups lies in the patterns of consumption. In other words, the only realistic counterweight to economic feudalism is an agreement on common standards among a group of national areas sufficiently large to control the patterns of consumption. Consumption, after all, is the transnationals'

source of income. The key to a corporation's success in the feudal order is not its ability to produce, however low the cost, but its ability to sell.

"The European Community is an attempt to create international standards through control over consumption patterns, but so long as the United States and Japan follow different rules, their group is not large enough. The free trade agreement between Canada and the United States, and NAFTA, Canada, Mexico and the United States, were both sold to the public with emphasis on the advantages to consumption. These treaties were really about patterns of production. They restructure large geographical areas to suit the methods of abstract economic feudalism."

Lastly, "The citizens' problem over the next few decades will be to control feudalism without denying the possibility of humanism. This means making use of the nation-state, because that is the practical, concrete shape of our existence as citizens, but using it in a cooperative manner to establish international agreements on standards which spread far enough to make them enforceable. If we fail, we'll soon find ourselves trying to rebuild society from scratch, having dismantled it in the name of abstract determinism."

David Suzuki, Canada's noted geneticist, environmentalist and author, once spoke of an encounter he had. He said he was very impressed by the advice he was given while he attended a meeting in the US. The gentleman to whom he was speaking had written a book on the state of the environment and environmental policy. That man stressed to Mr Suzuki that changes in environmental policy are not to be won by directly pressuring politicians. The politicians, he explained, could only respond to their constituents' demands. He urged Mr Suzuki therefore to try to change environmental policy at the grass-roots level by educating the public. The man who gave this advice to Mr Suzuki was in a position to know about the workings of political life. He is the vice-president of the United States, Al Gore.

If we both understand that we must avoid the fate which Mr Ralston Saul and Mr Tony Clarke describe, then we must inform the public. Perhaps one very useful way to alert the public is to create much white heat here. I shall leave that theory to others who are much better at it than I, but it is absolutely necessary that this drama take place, and as loudly as possible.

In conclusion, many citizens have complained about one part or another of this bill, but if the government believes that this bill is necessary for economic reasons and conditions which go far beyond the scope of this bill, then one part or another is viewed by the government as a necessary evil to achieve prosperity in the future. So the criticism falls on deaf ears.

What I have tried to do here is to clarify that the believed underpinnings for this government's hope for prosperity for the future are false. Marching to the tune of the transnationals only invites a downward spiral of societal and social decline. It invites chaos.

I encourage you as representatives of your constituents, about whom you care deeply, to seriously analyse the very

basis upon which all this legislation is being enacted. If you find, as many do, that the future you are currently leading Ontario into will be a desperate, frightful one, then please join with us in order to find a better future for our children, a future in which we work with, not for, the transnationals.

The Chair: Thank you very much, Mr Godwin, for your presentation this morning. Unfortunately, there isn't time for questions, but on behalf of all the members of the committee, I thank you for coming. We appreciate it was short notice, but we thank you again.

Mr Godwin: As long as the optimism is based on fact.

ONTARIO FEDERATION OF LABOUR

The Chair: I now call upon representatives of the Ontario Federation of Labour, please. Good morning, gentlemen. Welcome. Please introduce yourselves for the Hansard record.

Mr Ross McClellan: Thank you, Chair and members of the committee. My name is Ross McClellan. I'm legislative director of the Ontario Federation of Labour. With me is Howard Goldblatt, from the law firm of Sack Goldblatt Mitchell, who has been acting as our solicitor as we move through the Bill 136 process. I've asked Howard to join me to talk about some of the technical aspects of the impact of Bill 136 on public interest arbitration.

First, let me say there's been a fair bit of conversation about the process between the labour movement and the ministry. I just want to make it clear that it's been a process of conversation; it has not been a process of negotiation. We have not been mandated, nor have the ministry officials been mandated to negotiate a mutually satisfactory outcome. In fact, that hasn't happened. Our position has not changed, even though the government's position has changed. Our position is set out in our document, which was distributed to you this morning. We want to spend a little bit of time talking about some of the major concerns we have about Bill 136.

Just so you're clear, Bill 136 represented a major affront to fundamental principles of freedom of association and democratic rights and a fundamental assault on the integrity of the public interest arbitration process. There are still major concerns, even after the government's restated position.

Our position, to recap, is that Bill 136 is totally unnecessary, that the broader public sector was thoroughly capable of dealing with all issues arising out of restructuring, mergers and amalgamation by relying on the existing system of free collective bargaining, the existing system of interest arbitration and the existing system under the existing statutes including HLDAA and the Ontario Labour Relations Act.

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I've also distributed a letter from the director the United Steelworkers, District 6, Harry Hynd, and a letter from the president of the Ontario Federation of Labour, Gord Wilson, both to the Minister of Labour and to the Premier. The assault that Bill 136 continues to represent

has to do with the integrity, independence and neutrality of the Ontario Labour Relations Board and the public interest arbitration process.

If I may, I want to focus just for a minute, before I turn things over to Mr Goldblatt, on the government's approach to the Ontario Labour Relations Board. When we talk about the independence, neutrality and integrity of the Ontario Labour Relations Board, we're increasingly required to use the past tense. That's because of the actions of the government over the past two years. First, the government fired the chair of the Ontario Labour Relations Board. Let me quote from the letter:

"The attack continued with the unprecedented termination of four vice-chairs in 1996. These vice-chairs, three of whom had union backgrounds, were terminated without notice and in the midst of their term of office as vice-chairs. In the entire history of the board," Mr Hynd writes, "I understand that no vice-chair has been terminated in this manner."

"Furthermore, it appears that the decision to terminate these vice-chairs was not made entirely by the chair of the board. It appears that the government, and particularly the cabinet, played a part in the decision both to terminate the vice-chairs and in the decision as to who was to be terminated. This is unprecedented."

If I can digress from the letter, apparently a list was presented to political officials in the government. Some people were chosen and some people were delisted. Going back to the letter:

"While your government was terminating members of the OLRB, your government was also attempting to interfere with the appointments of vice-chairs by making them 'at pleasure' appointments so that they can be terminated at any time."

"This last effort appears to have failed when opposition at the board and elsewhere apparently persuaded your government to amend the 'at pleasure' appointments to the normal three-year-term appointment. Nevertheless, the message your government was sending to the OLRB vice-chairs was clear: The government is watching you and you will be terminated if you do not toe the government line."

The process has continued even recently, but before that, let's recall — it's not in the letter — the Chair of Management Board mused out loud as to the impact of an OLRB decision that he didn't like, and indicated that he, a member of the cabinet, intended to have the decision reviewed. Normally, I would think if a cabinet minister threatened to interfere with a judicial procedure, that cabinet minister would soon be out of the cabinet. That's my understanding of the way things work. But that's not the way things work in Ontario in 1996 and 1997.

Going back to the letter from Mr Hynd:

"The most recent action taken by your government, and the action which makes it clear that the board has no independence from your government, arises from the termination of three experienced vice-chairs, Sherry Laing, Ken Petryshen and Kathleen O'Neil. All three had been at the board for between six and 12 years. All three of them had union-side backgrounds."

"Instead, your government has appointed Sharon Laing and Mary-Ellen Cummings to sit as vice-chairs. Both of these individuals have management backgrounds...."

"What is of more concern, however, is that this latest round of decisions were made apparently without consultation with anyone at the OLRB itself, in particular without consultation with the chair of the OLRB. These decisions were 'handed down' from the cabinet office. This is unprecedented."

Mr Hynd concludes:

"It's clear that the board is being run directly by your government as a political entity without consultation with the board itself. The board is not a ministry. It is supposed to be a neutral quasi-judicial tribunal."

When we express our concerns about the fairness, integrity, independence and neutrality of a quasi-judicial body, it's for good reason. This government has been systematically undermining that independence and neutrality, and this has to stop. If you don't believe me or Mr Hynd, I think you have also the testimony of Ron Ellis, a distinguished member of the Canadian bar who made a speech on September 24 calling for a royal commission inquiry into appointments to quasi-judicial bodies in the province of Ontario because of the behaviour of this government.

I flag this as a matter of the utmost concern to most fairminded citizens in this province. This kind of interference with an important part of our judicial system simply has to stop. We'll be watching as appointments are made to the OLRB, as it assumes new responsibilities with respect to mergers and amalgamations, to make sure this government pulls back from the brink to which it has led itself.

I'd like at this point to ask Mr Goldblatt to talk about some of the fundamental aspects of Ontario's public interest arbitration system that still remain very much at risk as a result of even the government's revised position announced by the minister last week.

Mr Howard Goldblatt: As Mr McClellan has indicated, I am a practitioner of labour law. I have been practising labour law for perhaps too long, but none the less I have been quite involved in the opposition which organized labour has mounted in respect to Bill 136, because both as a lawyer and as an advocate on behalf of working people, it was and remains my fundamental belief that Bill 136 represented a total abuse of the principles of natural justice and a fundamental attack on the underpinnings of the labour relations system that has developed in this province in respect of public sector employees.

We do not have an additional text to present to the committee this morning, because we want to emphasize the position of labour as set out in the OFL document which was distributed. While a lot of attention has been paid to the alternatives that labour has put forward, I think it's also significant that the committee be reminded of the fundamental principles which underlie labour's approach to Bill 136. Those principles bear repeating, and they're found at page 1 of the brief that Mr McClellan has submitted. They include the following:

(1) In our democratic society, employees are entitled to have their terms and conditions of employment negotiated through a process of free collective bargaining. I emphasize the word "free."

(2) The right to strike — and I pause to put in "unfettered" right to strike — is essential to free collective bargaining.

(3) In the case of workers providing essential services, if the right to strike is curtailed, it must be replaced with independent and impartial arbitration to determine employees' terms and conditions of employment. I will return to that theme in a few moments.

(4) Employees should not lose their collective bargaining rights as a result of restructuring and are entitled to standard successor rights protections, including continued trade union representation and application of their collective agreement.

(5) Any changes to bargaining units or bargaining rights as a result of restructuring must be based on recognized labour relations principles and be determined through a democratic, open, fair and independent process.

(6) Legislation must ensure that tribunals responsible for determining the rights of employees are governed by basic principles of fundamental fairness and natural justice.

I would submit to the committee that there are few who sit as legislators and few who participate in society's processes who could disagree with those six fundamental principles.

More significantly perhaps, as we sit here today, we don't know with certainty what Bill 136 will look like when it's finally passed. We don't know with certainty what the amendments to Bill 136 will in fact read. I don't propose to submit to the committee that the minister is not at this point to be taken at her word and that the changes she spoke of in the House will not be reflected in some way in the amendments as tabled. But with great respect, it's not enough to simply pay mouth service to some of the principles that fundamentally drive labour and all those who seek a fair process in respect of this matter.

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It has been said that the devil is in the details, and the details are important. Whatever amendments are put forward in respect of Bill 136, if they don't meet the fundamental principles which labour has outlined in its submission and the fundamental principles which we trust have governed and driven labour relations in this province for many years, they will be far short of labour's objectives in respect of this campaign.

Let me say a few things by way of specifics. I say these things in no particular order, but merely to emphasize some of the points we've made.

As Mr McClellan has clearly stated, the importance of the adjudicative process depends not just on what's being heard and the forum in which it's being heard, but who is making the decision. As labour has stated in its brief, the DRC was critically flawed with respect to appointments, procedures, criteria and policy. It lacked independence and fairness.

It is incumbent on this committee to ensure that whatever replaces the DRC, integrity, independence and fairness are the hallmarks of the arbitration system. It is not appropriate to have a selection made, by whoever is making the selection, from a list which is stacked, which is made up of people who are not consensual or made up of people who do not have acceptability within the broad labour relations community. That has been the way in which things have worked in the past. We are not certain that is the way things will work in the future.

We look with great respect to the example of the labour relations board as an indicator of what may happen, what could happen in respect of the appointments process. Arbitration must be independent, must be impartial, and must have integrity and the respect of the parties. As I said, it's not just how the matter is heard, but it is who hears the matter.

In respect of the way in which a matter is determined, we urge upon the committee that if the minister is to be taken at her word that there will be a return to the current arbitration system, then that current arbitration system is a tripartite system where both parties have chosen their representatives to assist in the determination of the dispute. This process has worked well. The nominees of the parties are their representatives in what is an extension of the negotiating process into the arbitration. It assists in mediation efforts, it assists the chair in understanding the complexity of the issues, it makes the hearings go more smoothly and, more importantly, the results are better for all concerned. So we urge upon you that there be no deviation from the current practice of a tripartite arbitration system unless the parties themselves agree otherwise.

There has been a lot of talk about the arsenal-of-weapons approach: mediation, mediation arbitration and perhaps, in extreme circumstances, final offer selection. I don't think we can say categorically we disagree with the arsenal of weapons. In fact, in practice, mediation arbitration takes place throughout the public sector and throughout the system of interest arbitration.

The question is, who will decide what weapon will be used, and when will that decision be made? It is apparent, with great respect, that the person who is in the best position to make that decision is not the person appointing the arbitrator, but the arbitrator himself or herself, together with their nominees. They will be in the best position to decide if in that particular circumstance a particular weapon is appropriate.

It seems to us to make little sense for someone who doesn't know the parties, who doesn't know the dispute and who doesn't know the issues to determine as a matter of policy that, "This is the weapon that will be used." The arsenal of weapons was designed to ensure that the appropriate weapon — I really don't like the word "weapon," but the appropriate weapon or technique — was used in respect of dispute resolution. It's not something to be used lightly. When the technique is chosen, surely it should be chosen by the person best suited to decide whether that technique is now appropriate.

With respect to final offer selection, we'd just like to go on record as saying that it does not work unless the parties agree at the outset that it is to be used. I know of no system where final offer selection is imposed at a time after the parties have conducted their negotiations and have reached impasse. The suggestion is that at some point when impasse is reached, final offer selection would be an appropriate method of proceeding.

No matter what Bill 136 does, it cannot in any way restrict the rights to a full and fair hearing. A full and fair hearing does not require that it be extended over a period of many days or months, but it does require that the parties have a right to be heard, a right to know the case they have to meet, an opportunity to meet that case and the right to know that the person who is hearing the case is the only person or persons who make the decision.

The way in which it has operated in the past and the way in which it operates now on a daily basis is that the arbitration tribunal decides how the process is to be conducted. That's the way the hearing process goes in virtually every judicial and quasi-judicial tribunal. There should not be — there must not be — any restrictions set out in legislation, in policy, in any other way which would restrict in any fashion the right to a fair and independent hearing.

There has been some talk with respect to criteria. Let me make two points on criteria.

The minister stated that we would be returning to the current legislative system. The current legislative system has in some respects criteria with respect to Bill 26. We are not in favour of those criteria, but we are certainly in no way supportive of additional criteria to be put into any piece of legislation which would attempt to or in any way direct the attention of the arbitrator to something which would fetter their decision-making ability.

Turning briefly to comments with respect to the transition process and the labour relations board, let me make the following comments.

Labour asked that there be no LRTC, for a couple of reasons: (1) because it would be an unnecessary duplication of an existing tribunal; and (2) because there exists in Ontario a body which has had a long and respected history of independent decision-making in areas which would be at the essence of the LRTC process. Mr McClellan made it quite clear that that was the past tense, increasingly, to talk about the labour relations board. He quoted from a couple of letters and he also made reference to Mr Ellis's comments recently.

It is essential, no more so with respect to arbitrators than it is with respect to the labour relations board, that fair and independent decision-making be preserved and that fair and independent decision-making be reinstated into the labour relations process. That requires decision-making without criteria based upon the board's history and long-established practices.

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One final comment before I receive any questions which the committee may have. Let me say this: There is no need for current interest proceedings to be terminated

and for new proceedings to begin all over again under Bill 136. That is a waste of resources; that is a waste of taxpayer dollars. The processes which are currently in effect should be allowed to continue to their conclusion, and whenever the amendments to Bill 136 come in, that would be for the next round of bargaining. There are many hearings which are ongoing right now, and to start all over again when there has been an expenditure of time and effort would in our submission be contrary to the concept of financial integrity and responsibility which this government professes to espouse.

The Chair: We have two minutes remaining per caucus. We'll begin with the government caucus.

Mr Maves: Thank you very much for your presentation. I think, Mr McClellan — I don't know about Mr Goldblatt — you've been in on the discussions with the Minister of Labour for quite some time now.

Mr McClellan: Yes.

Mr Maves: During those discussions, you've talked about your concerns with OLRB appointments and you've had assurances from the minister, I believe.

Mr McClellan: We've had assurances from the officials. I think it's important that the entire record be put out plainly, as I tried to do this morning. This government has a lot of work to do to restore its credibility with respect to the independence, neutrality and integrity of the OLRB.

Mr Maves: Mr McClellan, I think you were the gentleman who worked for the NDP when the social contract was brought in. The principles that you enunciate here, I think a lot of people in labour and a lot of people not in labour would agree with.

My problem comes in the fact that if you look at the Social Contract Act, it overrode collective bargaining by rolling back the wages of hundreds of thousands of employees; a three-year wage freeze; no merit increases or other compensation increases; pay increases in existing agreements cancelled; employers given freedom to implement other measures to meet spending reductions. The minister could decide whether any agreement met the required wage reductions and could even declare if a sectoral agreement existed, even if the parties themselves did not come to any agreement. The minister could recognize as a bargaining agent for unorganized workers any organization that in his opinion represented them. I think section 48 said an arbitrator could bring forth an award, but any award that went outside the Social Contract Act provisions would not be in effect.

Quite frankly, that social contract probably offended every single one of these principles. It's difficult for me to sit here and have you say that Bill 136 is just terrible, that parts of Bill 136 may offend some of these principles, when you were basically, as I understand it, the architect of the social contract, which violated every one of these principles. Why was it okay at one point for some of these principles to be violated, but at another point in time it isn't?

Mr McClellan: I modestly disclaim being the architect, but I would say that some of us — apparently not you — learned some valuable lessons from the social contract.

I think the previous government paid a pretty heavy price for the social contract, and the democratic verdict has been rendered. That chapter is closed, and I think there are lessons to be learned that you could afford to learn.

Mr Maves: We didn't deem outcome. That's a lesson we learned.

The Chair: We move to the official opposition.

Mr Patten: Good morning. You alluded to some of your worries about the criteria. Even though you don't like what's in there, you acknowledge the criteria of Bill 26 or any other criteria. In reading the minister's statement, there are a few words which suggest that there may be additional criteria that will be added that may not have been stated.

It seems to me that although the selection of arbitrators is now opened up and it's not arbitrarily set, as it would have been, the arbitrators will still be fettered. I see things like the minister saying, "As well, we will continue to require arbitrators to consider various criteria such as a public sector employer's ability to pay and the extent to which services will have to be reduced if funding and/or taxation levels were to remain unchanged," such as to consider, in terms of the OLRB — just a minute.

"I would like now to turn briefly to the criterion 'ability to pay.' The government will be extending the ability to pay and the other criteria Bill 136 proposes, that arbitrators consider for the hospital, police and fire sectors, to new post-amalgamation," etc, and then it refers to kicking in section 43.

She does not say, and I guess that's your point, "This is all we will have." I guess your worry, if I interpret it, is that we may see, and perhaps one of the reasons why we don't have the amendments before us for witnesses to see or for the committee to review is that there may be, other additional criteria imposed on that process.

Mr Goldblatt: That's correct. The position we made quite clear throughout the course of our discussion is that we don't want any criteria imposed upon the arbitration system. We're not suggesting that the current criteria are acceptable. We don't want any criteria. We want assurances that there will be no fetters on the way in which arbitrators decide these issues.

The Chair: To Mr Christopherson of the NDP.

Mr Christopherson: I'll try and get two questions in if I can, if time will allow — one for sure.

The first one is, I have asked every labour representative and every labour leader who has come forward whether or not they had any opportunity at all to have any discussion, dialogue, negotiation, contact with the government prior to the introduction of Bill 136, which of course set the province on the brink of a real crisis. I'd like to ask you, as one of the key officials at the umbrella organization representing labour in Ontario, officially whether you are aware of any contact or negotiation, discussion, prior to.

If you wish to comment on how that compares to the social contract, feel free, but more importantly, just how much dialogue was there before that bomb was dropped on the floor of the Legislature?

Mr McClellan: There was absolutely none prior to the introduction of the bill in June. That's of a piece with the introduction of every other piece of labour legislation since this government was elected. So the answer to your question is very simple: There was absolutely no consultation prior to the introduction of the bill. There has been conversation subsequent, but I want to repeat that it wasn't negotiation. Our position is set out in our brief, and we tried to explain again that our position remains unchanged even though the government seems to have changed and continues to change its position.

Mr Christopherson: One of the key things that has come up from a lot of presenters is the absolute need to see the amendments, given the fact that 136, as it was, other than pay equity and the employee wage protection plan, has been gutted, according to the minister; she's pulling back on everything.

In our opinion, that completely changes 136 if she follows through. It won't be anything like what 136 was. In effect it's a new law, and therefore the amendments ought to be in front of us now, during these hearings. If that can't be done, then once they are tabled there ought to be renewed hearings to give people an opportunity, rather than addressing phantom legislation, as it's being called.

You are not only —

The Chair: Very briefly.

Mr Christopherson: This is important — the director of legislative matters for the OFL and a key adviser to a former Premier; you're also a former MPP in your own right. Are you aware of any process that's similar to this? The government is saying that this is just like every other time; you always do the amendments afterwards. Also, how critical is it to have public hearings and public input on the amendments in this particular case?

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Mr McClellan: I've been around here since 1975 in one form or another — probably too long — but this is the worst process I've ever seen. I have to say that. It's completely insane to be having these hearings without having the amendments in front of you and the people who have an interest in the issue. It's just complete madness to be having this kind of farcical proceeding when we haven't the slightest idea — even after days and days and days of discussion, I can't tell you what's going to be in the amendments, and I've probably had more opportunity than almost anybody else to talk to officials about the details. Nobody will know, until it's too late on Monday morning, what in fact the government's position is.

So these hearings are totally preposterous. It cries out for an extension of the hearings once the amendments have been introduced so that the law may be developed in a rational manner, and not this completely cockamamie system.

The Chair: Gentlemen, on behalf of all the members of the committee, I thank you for coming before us this morning with your advice on this bill.

PROVINCIAL FEDERATION OF ONTARIO FIRE FIGHTERS

ONTARIO PROFESSIONAL FIRE FIGHTERS ASSOCIATION

The Chair: I'd like to now call upon representatives from the Provincial Federation of Ontario Fire Fighters and also the Ontario Professional Fire Fighters Association. Good morning and welcome to the committee. Please introduce yourselves for the Hansard record.

Mr Bruce Carpenter: First of all, I'd like to take this opportunity to introduce myself. My name is Bruce Carpenter. I'm the president of the Provincial Federation of Ontario Fire Fighters. To my left is my colleague the vice-president of the Provincial Federation of Ontario Fire Fighters, Mr Jim Simmons. To my right is the executive secretary-treasurer from the Ontario Professional Fire Fighters Association, Mr Wayne DeMille, and to his right is Mr Henry Labenski. Henry is one of the vice-presidents of the Ontario Professional Fire Fighters Association.

I'd just like to say first, before I begin my report, how disappointed professional firefighters in the province are that the process for this committee has been set up such as it is. We have had a number of our locals — and we represent over 80 locals in the province — which have been approached with one hour to spare to present before this committee. That's extremely disappointing, seeing that it would be impossible for members of any group to prepare and present a presentation as important as this before this committee with less than one hour's notice. That is extremely disappointing to professional firefighters in this province.

Let me begin my presentation. Members of the committee, my name is Bruce Carpenter. This submission is being presented on behalf of the Provincial Federation of Ontario Fire Fighters and the Ontario Professional Fire Fighters Association. We have a combined membership of over 9,000 full-time professional firefighters in the province of Ontario.

With the events that have transpired since last week, one hardly knows where to start. Bill 136, as tabled, is in our opinion the worst labour bill that we have ever seen, and this government's record on labour legislation has been quite simply dismal.

When the Minister of Labour announced that significant amendments taking into account labour's alternative proposals would be tabled, we could see some light at the end of the tunnel. However, we have yet to be presented with any specifics of any forthcoming amendments.

Professional firefighters in this province have in only two years witnessed a litany of bills from the Harris government that will have a detrimental effect upon our members and, we believe, the public that we serve. They include Bill 26, the omnibus bill; Bill 84, the Fire Prevention and Protection Act; Bill 99, the Workers' Compensation Act; and now Bill 136. Thus, you can understand that our good faith and trust has worn very thin indeed.

We would very much like to see the proposed amendments that have been promised. This would not only be the

honourable thing to do, but it would allow us to make a presentation based on actual data rather than what we believe the minister might have meant when she announced upcoming amendments.

We must in all honesty tell the committee that we are not convinced that this government even understands the concept of open consultation. We sincerely hope we are not wasting our time here today. In the absence of any specific amendments, it will be more difficult to intelligently discuss Bill 136, but we will try.

Although we share and support the labour movement's concern with Bill 136's attack on public sector workers' right to strike, as essential emergency service providers we would have been greatly and detrimentally affected by the proposed Dispute Resolution Commission. We view this as an arbitration system where, quite frankly, the fix would be in. Government appointees would hand down unjust, lopsided awards. We are encouraged that it has been announced that the new Bill 136 will do away with this body. We encourage you to keep this promise and not reinvent the Dispute Resolution Commission under another name.

Even before Bill 84 officially legislated away any possibility of a withdrawal of services by firefighters, we had voluntarily agreed never to strike. Both the Provincial Federation of Ontario Fire Fighters and the Ontario Professional Fire Fighters Association's respective constitutions contain articles prohibiting strikes by firefighters. There was no need to coerce us with Bill 84 to protect the citizens of Ontario. We have always known and continue to know where our responsibilities lie.

We therefore have six points to make with regard to whatever amendments are forthcoming from the Minister of Labour:

Until now, provincial governments — the Conservatives, the Liberals and the NDP — have responded by providing us with a fair arbitration system staffed by independent and knowledgeable arbitrators. Also, as an integral component, association and corporation nominees have been provided to bring some understanding to the process when required.

Further, firefighter associations believe that the interest arbitration has been well served by the use of nominees by the parties. Nominees are uniquely familiar with the terms and conditions under which firefighters work, and provide invaluable assistance to chairs of boards of arbitration in determining a fair and reasonable award. Nominees provide experience and expertise as well as a more detailed understanding of the dispute, and are able to assist the chair in arriving at decisions which may better reflect the interests of both parties.

We understand that it is the intention of the government to include the arbitration process in the statute itself. The professional firefighters support and encourage this change. Unlike other groups, firefighters have traditionally prepared and presented their own boards of arbitration. It is of significant assistance to us and the process itself if it is spelled out in the legislation rather than left to the changing whims of regulations.

Some of our members have already proceeded or are proceeding to arbitration for resolution of their 1996-97 collective agreements. It would be neither cost-efficient nor productive to force firefighter associations and corporations to change horses in midstream. It is only reasonable that they be allowed to see it through under the present conditions. If we can believe that the minister intends to abolish the Dispute Resolution Commission and return to a fair, just and independent system, this should not be a problem for the government. It only makes sense. In fact, we urge the government to make no changes whatever to the present interest arbitration system.

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Professional firefighters have considerable faith in the arbitrators who presently adjudicate our contracts. In fact, in most cases our locals and the cities and towns they deal with have been able to agree on an arbitrator to hear the case. Only rarely must the parties resort to the Solicitor General requesting an appointment. This suggests that both parties have confidence in the present list of arbitrators. We recommend, therefore, that before the present list of arbitrators is tampered with, full and meaningful discussions take place.

Interest arbitration boards have traditionally been quasi-judicial events. This is as it should be. Both sides must be treated as equals, with mutual access to the data that is being considered by the board. This flows from natural justice, a concept left out of Bill 136 altogether. This leaves absolutely no room for final offer selection, mediation arbitration or any other combination of tactics that the government may conjure up.

Bill 84 has already introduced conciliation into the process. One would expect that if the parties could not agree and a conciliator could not breach the gap, then full and independent arbitration is the next logical step.

Finally, we absolutely oppose any further restrictions on an arbitrator's right to arbitrate. The criteria for arbitrators spelled out in Bill 26 and reinforced with Bill 84 have led one prominent and respected arbitrator to declare that he will no longer sit on interest boards. This is a great injustice, since the firefighter associations, the corporations and the public have been well served by a process that has worked. It has been the cog upon which firefighters have been able to deliver uninterrupted, 24-hour-per-day, 365-day-per-year fire protection to the people of Ontario.

We are opposed to the introduction of new criteria based on undefined best practices. We believe that reliance on these criteria may well be an attempt to justify contracting out of essential fire protection services. It is our belief that any proposals which may facilitate the privatization or contracting out of services which are essential to public safety are contrary to the public interest.

There seems to be a prevalent attitude that the present arbitration system is too costly, too lengthy, and does not encourage the parties to settle. This has been the position of the Association of Municipalities of Ontario, and is patently not true. In 1994, in a document entitled Reform

of Interest Arbitration in the Municipal Sector, they stated:

"Many municipal employers believe that during pre-arbitration negotiations labour has little or no incentive to commit in earnest to the process since they have little to lose, and as the record of rewards shows, much to gain from proceeding to the arbitration process."

If AMO's contention were remotely true, we would expect to witness firefighter locals trotting off to binding arbitration very often. Indeed, our data from our affiliated locals shows quite the opposite. We submit that the overwhelming majority of contracts are settled at the bargaining table between the parties. It is always better to negotiate a collective agreement than have one settled by arbitration.

Using the example set out below, we have outlined the various years that locals of the Provincial Federation of Ontario Fire Fighters have taken advantage of the interest arbitration provisions under the terms of the Fire Departments Act. As can be readily observed, the vast majority of agreements have been successfully concluded at the bargaining table. We have chosen a time period from 1980 until the end of 1992, a span of 13 full years. We have not included statistics from 1993, 1994 and 1995, due to the effects of the social contract. These statistics are found on the bottom of page 9 and the top three quarters of page 10. I'll leave them for your perusal, but I think we can draw a number of conclusions from our data.

Nine of the locals have never resorted to arbitration. Each and every one of the affiliates has signed agreements at the bargaining table more often than they have resorted to arbitration. Approximately 85% of contracts are freely negotiated. It is wrong to suggest that arbitration is over-used. In the vast number of cases, the present system clearly works.

It is the submission of the professional firefighters of Ontario that arbitrators must be independent and devoid of legislative restraints which would inhibit their impartiality. The arbitration process is crucial to firefighters in the province. As noted earlier, it replaces our right to strike and quite simply must be fair, equitable and impartial. Although sometimes disappointed, we believe that arbitrators have generally been extremely competent in their awards.

Currently in Ontario, there are a number of arbitrators who have dealt extensively with firefighter boards and are cognizant of the issues and arguments presented to them. Usually, the arbitrator has been agreed to by the parties. Their awards are reasoned, just, and based on the facts presented to them at the arbitration hearing, and are greatly assisted by both nominees.

We have taken the time to focus on the firefighter arbitration process, as it would obviously impact most heavily on our members. This does not mean that we do not feel strongly about other aspects of Bill 136.

We have significant concerns about the transitional arrangements proposed in the Labour Relations Transition Act. We oppose the creation of a new commission to deal

with successor rights issues and support the transfer of all of its functions to the Ontario Labour Relations Board.

We are concerned, however, that there is no clear provision in the legislation which prohibits any commission or the labour relations board from placing firefighters in the same bargaining unit as other employees. Firefighters have a long history of bargaining separately with their municipalities under separate legislation which recognizes the essential nature of the duties which they perform. The legislation must at the minimum ensure the continuation of separate bargaining units for firefighters.

We oppose the termination of ongoing interest arbitration proceedings in the context of restructuring, since it is our belief that the continuation of such proceedings would be more cost-efficient and productive, unless both parties agree otherwise.

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Finally, the small lack of commitment to fairness and due process with respect to procedure is evident in relation to the procedures adopted by the LRTC. It is our hope that the requirements of natural justice and a fair hearing presently observed by the Ontario Labour Relations Board will be incorporated into any legislation. The powers granted to the LRTC to develop policies and which allow them to dispense with public hearings should be removed from this bill.

Firefighters believe the government should simply withdraw this ill-advised, undemocratic legislation and let the present solutions prevail. Rather than encouraging stability, Bill 136 virtually ensures instability when regions amalgamate and workers inevitably fight back.

It is dishonest on its face to entitle it a "transition stability act" and then change our arbitration system permanently. It leads firefighters to the conclusion that the labour legislation emanating from this government, especially Bill 136, has more to do with downloading, cut-backs, tax breaks and privatization than the delivery of quality public and emergency services. We sincerely hope this committee will make the necessary amendments to allow Bill 136 to conform to the alternatives presented by labour's common front.

Further, once the proposed amendments have been tabled, we urge the government to continue public hearings to allow for public input into the amendments, followed by meaningful negotiations with the parties that will be impacted by these changes.

I want to thank you for this opportunity to appear. Hopefully our time has been well spent and firefighters will be heard.

The Chair: Thank you very much. We have two minutes remaining for each caucus. That's time for a brief question and answer. We'll begin with the Liberal caucus.

Mr Patten: An excellent presentation; very well said. I couldn't say it better myself.

We share some of your concerns. You worry about new criteria, which I've been trying to dig out here. I'm going to read a section and then I'm going to ask you to respond to it, because the evidence does not warrant the intrusion in the process, based on the history of labour relations and

collective bargaining thus far. This is the minister talking last Tuesday. She said:

"The government's proposed changes to Bill 136 will change the Fire Protection and Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act to create expedited time lines to ensure the quick and timely resolution of disputes in the police, fire and hospital sectors. It will continue with the Bill 136 changes which provide arbitrators with more choice to deal with collective bargaining disputes in the police, fire and hospital sectors. More choice is going to include the use of mediation, mediation arbitration and final offer selection during the arbitration process.

"As well, we will continue to require arbitrators to consider various criteria such as a public sector employer's ability to pay and the extent to which services would have to be reduced if funding and/or taxation levels were to remain unchanged."

How do you feel about that?

Mr Carpenter: I don't feel very good about it at all. We're living with criteria now that were imposed on us as a result of Bill 26 and reinforced in Bill 84. We didn't ask for them; we got them. We don't think the arbitration process requires them. As we've said, we think the process has been fair and we think arbitrators have taken into account all the data that have been put forward to them. We believe it's a tactic by the Association of Municipalities of Ontario, who have not presented well to arbitrations over the years and have continually whined that the results have not been in their favour. So we absolutely don't support that process at all.

Mr Patten: They've given you the chance to participate in selecting an arbitrator. Your reference to one of the arbitrators in this comment wasn't particularly encouraging.

The Chair: We have to go to Mr Christopherson.

Mr Patten: They're adding criteria that will truly make it very difficult for arbitrators to operate as they have done heretofore.

Mr Carpenter: Absolutely. The arbitrators are —

The Chair: I'm sorry. We have to move to Mr Christopherson.

Mr Christopherson: Bruce, thanks very much for your presentation. I'm pleased to see that the president of the Hamilton firefighters, Henry Watson, is here today too. It's always good to see Henry up front in these things.

I want to ask you a very specific question. Every labour leader who has come forward has expressed shock, disappointment and outrage at not having any input into 136, especially when the government says, "Hey, we made all these changes because we were listening." The argument is, why didn't they listen and talk beforehand?

You have even more reason, in my opinion, to be upset, because I remember that infamous tape. When I was the Solicitor General, Mike Harris was leader of the third party, where Howard Hampton is right now, and he made an explicit promise — and you still have that tape — that he would do anything to firefighters without absolute, total consultation, input, every word you can think of.

What I'd like to know is not only with regard to 136, but how much of that promise was kept for you with Bill 84 and Bill 26? How much of the promise that Mike Harris made to you has been kept?

Mr Carpenter: Absolutely none. Professional firefighters have never been consulted in regard to any legislation. That includes Bill 26 and it particularly hit home with us with Bill 84. You're absolutely right: The Premier promised on video that he would consult with professional firefighters before the Fire Departments Act was changed. That was a pre-election tape, unfortunately, but we held him to that promise. When somebody tells us something, we expect them to carry out what they say. We do that; we expect others to be honest with us. In our opinion, he absolutely was not.

I can say that the 9,000 professional firefighters and the people we represent — 200,000 people signed a petition that we brought forward on Bill 84, and we consider those people to be our constituents as well as our members — are disappointed in this government.

Mr Christopherson: I want to say on behalf of hundreds of thousands of other public sector workers in this province that they appreciate the unity you've shown around 136. I know that firefighters have incredible respect and credibility in all our communities, in Hamilton and right across Ontario. The fact that you're up front in saying, "This is public sector people who care about Ontario, care about services," and that you're all being hit means a lot. I want to thank you for being up front and being a part of that united coalition that says 136 is not fair, that public sector workers care about what they're doing and you can't do this to us.

Mr Ernie Hardeman (Oxford): Thank you, gentlemen, for your presentation this morning. Contrary to popular belief, I want to echo the comments of the member across the aisle. I think the firefighters are well respected in the province for what they do, and the public appreciates the service you provide for them. In fact, in a lot of polls taken, that service is one of the highest-ranking municipal services being provided in the province.

I wanted to go quickly to the issue of Bill 84 and the process. I understand your association did have a certain amount of consultation with the minister during the committee hearings and after that, and the minister made amendments. One of those amendments was to make sure the association was protected, that it was not an open vote that your members could be members of other unions, that you would represent your workers as you had done in the past.

My understanding was that the amendment was agreed to and was required on behalf of your members, but you didn't see it until it was put into the clause-by-clause and was put forward that way. Is that not the same as what is happening here, the discussions, the changes being made, that what the minister said he was going to put in the bill, he did put in the bill, and now the professional firefighters are the bargaining agent for all the firefighters, as they were before?

Having said that, if that is the case — and I see in your proposal that is one of your concerns, that you retain that right — I would suggest that if that was important then and was put in Bill 84, it would be important that it be maintained in this bill. Is that a reasonable assumption to make?

Mr Carpenter: Let me try and answer all your questions. To say that we were ever consulted with respect to Bill 84 is certainly wrong. We consider consultation to be sitting down with people who the legislation affects most, and that was professional firefighters and the public, prior to that legislation being drafted. That was never done. The legislation, Bill 84, was imposed on us and then we spent considerable time trying to convince the government that they should make changes to that legislation. It's our opinion, and we are right, that we got absolutely nothing in return from the government. What the government did in regard to Bill 84 was correct all the mistakes they made and then answer none of the questions in regard to public safety, absolutely none. That's what happened.

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Mr Hardeman: Let me finish the question. The question was the issue on the bargaining rights. Isn't that what was guaranteed with the amendments?

Mr Carpenter: It was guaranteed with the amendment after we convinced the government, after many meetings following the presentation of the bill, following the bill being tabled in the Legislature, that it was the thing to do. Don't ever, ever try and convince us or the public that the government freely offered that, because they didn't. They offered it as a result of pressure put on them by firefighters and by the people we represent. That's how that ended up in there. We feel we continually have to protect our members and our organizations through Bill 136, which is just another attempt by this government to try and reorganize unions in this province, and we're part of that.

Mr Hardeman: I appreciate that is what you're doing —

The Chair: Wrap up, please.

Mr Hardeman: — but I would suggest that is why you are the bargaining agent for the firefighters; it is your job to protect their interests, and here you are.

Mr Carpenter: Sir, the only reason we continue to be the bargaining agent for firefighters is that we protected the rights we believed we had. If it was your government's way, we may not have been the bargaining agents. There may have been votes and other unions may well have been the bargaining agents for firefighters in this province. Sir, I put to you that that is patently wrong and that does not represent the best interests of the citizens of this province.

The Chair: On that note, thank you, gentlemen. On behalf of all members of the committee, we thank you for coming before us this morning with your advice on this bill.

Colleagues, I was a bit concerned about the comments about the notice, particularly because my draft schedule for Wednesday and Thursday included the Provincial Federation of Ontario Fire Fighters and the Ontario Pro-

fessional Fire Fighters Association. I've asked the clerk for some clarification just on this one point.

Clerk Pro Tem (Mr Doug Arnott): As directed by the committee, I did schedule the Provincial Federation of Ontario Fire Fighters and the Ontario Professional Fire Fighters Association with two separate presentation times of half an hour each on the first afternoon that I was directed to schedule witnesses. That was Tuesday afternoon. It was at their request, I believe yesterday, that the two presentation times were joined together. A couple of their locals, I understand, were contacted to be offered presentation times that were open today, but I do believe advance notice was more than one hour.

The Chair: Thank you for that. It was just a concern I had about the difficulty of booking, and I wanted clarification of that.

Mr Jerry J. Ouellette (Oshawa): On that point, could the clerk advise us: He said "scheduled" on that date. Does that include "notified" them as well? Just because we schedule somebody doesn't mean we actually notify them or have communication with them.

Clerk Pro Tem: I actually had personal communication with Mr Simmons and Mr DeMille at the committee room here on Tuesday afternoon.

SUNNYBROOK HOSPITAL EMPLOYEES UNION, LOCAL 777

The Chair: The presenters at 11 o'clock and at 1:30 this afternoon are switched, so at this time we'd now like to welcome representatives from the Sunnybrook Hospital Employees Union, Local 777. Thank you very much for coming this morning. We appreciate your flexibility in being able to switch with this other group. I understand the gentleman missed his plane, so your cooperation is much appreciated by the committee.

Ms Michelle Sherwood: Thank you very much. We certainly appreciate the committee's cooperation in allowing us to reschedule.

The Chair: Please introduce yourselves for the Hansard record.

Ms Sherwood: My name is Michelle Sherwood. I'll be presenting on behalf of the Sunnybrook Hospital Employees Union. To my right is Michael Phillips, who is the president of Local 777. Sunnybrook Hospital Employees Union is part of the Service Employees International Union, which represents over 44,000 employees in the health care sector, the vast majority of whom are governed by the provisions of the Hospital Labour Disputes Arbitration Act. Sunnybrook Hospital Employees Union represents 1,200 employees at Sunnybrook. Accordingly, I think we're in an exceptionally good position to comment on some of the changes that are proposed to HLDAA.

At the outset, I wish to thank the committee for giving us the opportunity to present this morning, but I do wish to place on record the concerns we have both with respect to the short time lines that were set aside for this process and the fact that notwithstanding the minister's announcement last week that there would be substantial amendments

altering the focus and nature of this bill, we're in the position of having to comment on a bill for which we haven't seen the proposed language or the substance of the amendments. Accordingly, we're very concerned with the difficulties of making informed comment on legislative provisions that we simply haven't seen.

Within those limitations, however, our brief does attempt to provide feedback to the extent that we're able to give it, given the limitations of our understanding of what the government is proposing to do with Bill 136 in amendments that are to be tabled next week.

Turning to page 2 of our brief, I would just ask you to note that HLDAA has remained essentially the same over the period of the last three decades. In our submission, it has functioned extremely well to meet the needs of both the workplace parties, with no major disruptions to the public service over the entire period that the act has been in force. We understand that the government has committed to return to the current system of interest arbitration and that the various appointment processes associated with the Dispute Resolution Commission will be removed, and our comments are based on that understanding.

In our submission, it is simply absolutely critical that the appointment and selection process for the selection of arbitrators be and be seen to be independent, neutral and impartial. In this regard, we have a number of concerns with the proposal that we understand to be on the table, that a Ministry of Labour official will be selected to meet with the parties in the event that the parties are unable to arrive at a negotiated collective agreement. That same official will then be in a position of both choosing the dispute resolution mechanism and appointing the arbitrator.

In our submission, it is absolutely essential that the appointment process be an arm's-length one and that the person making the appointments be separate from any involvement with the parties and with determining the dispute resolution mechanism. In our submission, it's inevitable that at the very least an apprehension of bias in the system will creep in if these functions are all legislated to reside in the same individual.

The second point of concern that we wish to raise is with respect to the proposed amendments to introduce a choice of procedures; in other words, moving away from conventional arbitration as I understand it towards a process of mediation arbitration, and even possibly in some circumstances final offer selection.

SEIU has used both arbitration and mediation arbitration to good effect in the past, and we certainly don't have a problem with continuing to have recourse to both those systems, although in our submission it functions most effectively when those options are made with the consent of both parties. We do, however, have serious reservations with respect to the option of final offer selection being imposed. Our submission is that this is a discredited system which neither employers nor unions have shown any ability to use. It's simply a system that's acceptable to neither party, and as I understand it, neither employers nor unions would wish to function within the confines of a

final offer selection system. We would strongly urge the government not to consider this option or to give it any weight in determining what dispute resolution mechanisms would be offered to the parties.

Third, we are extremely concerned with the government's proposed purpose clause, specifically the best-practices clause which is contained in both section 1 of the dispute resolution act as well as section 1 of the public sector transition legislation. In our submission, the effect of this clause can only be to attempt to fetter both the board and the arbitrator's discretion to make awards in accordance with current government fiscal policy. In our submission, it can only have the effect of compromising both the integrity and the independence of both of these decision-making bodies. In our submission, in order for this system to be workable, both arbitration boards and the OLRB must be seen to be fair and impartial, with the ability to exercise their decision-making powers in accordance with the evidence which is before them.

1110

As this government is well aware, ability-to-pay criteria already exist which arbitrators are directed to take into account and do take into account in the course of making their decisions under the existing interest arbitration system. In our submission, there is no benefit to be derived by imposing a purposes clause that will have the effect of fettering the discretion of the arbitrators in a way that has been found to be unacceptable by all parties.

In particular, I would ask you to consider the jurisprudence of the International Labour Organization, which I believe we've referred to at page 4 of our brief, which talks about the risk of compromising the integrity of the whole system where arbitrators are directly appointed by a government which lays down in legislation certain criteria which arbitrators are bound to follow in the determination of their awards. It is our position that this purposes clause should simply be eliminated in the whole, but if the government is determined to insert some form of purposes clause, we would urge you to impose a criterion that requires the decision-maker to take into account the criterion of fairness to workers.

The other features of the dispute resolution process that we would like to touch on: First, the importance of nominees in ensuring a balanced and expeditious process. In our submission, nominees are not only important to ensure the balance and accountability of the process, but they also play a very effective role in furthering mediation and settlement of disputes. In our submission, that role is entirely consistent with the stress of the government's amendments to move towards more mediation arbitration in the system. We would suggest that nominees should be available at the request of either party, and we would urge the government to make those amendments.

With respect to proposed expedited time lines to expedite the interest arbitration process, we've set out our position at page 6 of our brief. While we're clearly not opposed to time lines that expedite the process, we would submit that those time lines must be realistic, given the importance to the parties of a full and fair hearing. Ac-

cordingly, we would suggest that there must be provision for waiving those time lines where the time lines prove not to be realistic.

One of the time lines we've heard suggested or proposed is a period of 60 days from the date of appointment of the board to the date of issuance of the award. In our submission, this simply is not a realistic guideline since many arbitrators will not be available or simply will not feel able to assume the appointment if they are required to adhere to these types of guidelines. We would suggest that it's absolutely essential that the time lines not be used to skew the process by narrowly confining the slate of arbitrators who are available and willing to undertake the arbitration process. We would suggest that in setting time lines, you consider a period of perhaps 60 days from the date of hearing, as opposed to 60 days from the date of appointment, as being a more realistic time frame which is also consistent with the rights of the parties to a full and fair hearing.

With respect to the effect of the amendments on existing proceedings, we deal with that issue at page 6 of our brief. We are strongly recommending that section 50.2 of the dispute resolution act be eliminated in its entirety. In our submission, there's simply no principled reason for requiring parties who have already engaged in days of negotiations, hearing dates, and in many cases a final exchange of submissions to go out and commence the process in accordance with the new government procedure. It's contrary to all the principles of expedition which the government has indicated have triggered the changes which are proposed to the interest arbitration system. It also, in our submission, will cause grave prejudice to the parties by requiring them to incur further expense to go out and relitigate issues that have already been completed or effectively completed but for the issuance of a hearing and will put the workplace parties, and in particular the members, in the position of having to undergo further delay before having their collective agreements finalized.

The second section of our brief deals with the issues of restructuring. Again, we reiterate the comments which we made earlier with respect to the imposition of a purposes clause, and most particularly the best-practices section of that clause. We submit that the effect of such a clause can only be to fetter the discretion of the board and to compromise its long and trusted history as an impartial adjudicator of labour relations disputes.

The essence of our position is that, although some expanded powers should be given to the board to deal with issues arising out of restructuring and the mergers that are taking place, those powers should be in line with and in accordance with the board's established policies, precedents and procedures. We would urge this government not to deviate from the jurisprudence and the practice which has been established for the board.

Finally, I wish to touch on the issue of the pay equity amendments which are contained in Bill 136. SHEU strongly opposes those amendments. We have adopted and we endorse all of the arguments that are set forth with respect to that issue in the Equal Pay Coalition brief. We

urge this government simply to eliminate all proposed changes to pay equity.

Those are all the submissions I have to make at this time.

The Chair: Thank you very much. You have left us with almost seven minutes per caucus, and we'll begin with the NDP.

Mr Christopherson: Thank you very much for your presentation. I want to ask you how you felt preparing for this submission, not knowing exactly what you're preparing for, and how you would feel about the need to have an opportunity to come back and make a further submission when you have the actual detailed amendments in front of you.

Ms Sherwood: Frankly, it has been almost impossible to formulate a coherent brief without having seen what the legislative provisions are, particularly in a case where we understand that there are amendments forthcoming that are essentially going to change the whole thrust. That's what the government has advised us. Certainly, in the interest of any kind of full and public debate of these issues, we would like the opportunity to respond to those amendments once those amendments are tabled. In our submission, anything less basically compromises the integrity of this process, quite apart from our concerns with respect to Bill 136.

Mr Christopherson: I don't think we in the opposition have had a chance to explain further that not only do we have these hearings in the absence of any kind of knowledge of what the real bill is going to look like, not only was there no lead time even for those submissions to be created for a phantom piece of legislation, and not only is it all going to be rammed through starting Monday morning at 10 o'clock, but under the process the government has rammed down our throats against the wishes of the opposition, no further amendments can be made after 10 in the morning. Not only are they not going to give you at this stage an opportunity to comment on those amendments, but if during our discussions, the short two days that we have to go through those amendments ourselves, we should feel that there need to be amendments, even if it's not a philosophical or political thing but just to make the law better, it can't be done. They've made it so tight that there's no way to amend anything.

There's going to be one shot. The government will bring in their amendments — we'll bring in our amendments, but they are going to vote against them; if they didn't, it would be historic in its significance — and they're going to ram them through. There will be no opportunity to make any changes at all to those amendments. So the sham continues, and people need to understand that not only is it a sham for them, but even internally, in the legislative process, it's a sham. It's so frustrating to have group after group come in and express the fact that they feel they're being used for a publicity stunt rather than any real, meaningful dialogue.

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I want to state again the fact that the government hasn't left itself any time for any kind of cabinet meeting. I'm

still not aware of any special cabinet meetings that have been called which would be necessary to deal with anything they've heard that might cause them to want to change their minds. These decisions were taken, at the very latest, at the last cabinet meeting, which was a week ago Wednesday. So the whole thing is a sham.

I want to ask you about your concern, and everyone's, about the need for unfettered arbitration decision-making and the fact that they be allowed to make decisions in the absence of any kind of bias; no criteria that might fetter their decision-making. Do you have any real concerns that the legislation that's coming down, the amendments we'll finally see Monday morning at 10 o'clock, will be minus things you need or rather things that are in there? Do you have reason to believe or do you have a reasonable concern that those amendments may not, or are you prepared to accept the minister's word, "Don't worry, it will be all right"?

Ms Sherwood: Obviously we're not content with accepting the minister's word and that's the reason for the concerns we've placed on the record. We have no reason to believe, on the basis of what we've seen of Bill 136, that those amendments will be responsive to all of labour's concerns particularly with respect to the independence and impartiality of the decision-making process.

Mr Christopherson: Can I ask you another question? I know you're not in a position to speak on behalf of all of labour or even for all of your union, so I accept this may be just your own opinion, but could you just start to give us some idea of what you think could happen, after the amendments are tabled at 10 o'clock Monday morning, with this airtight process, where you're carved out of it — and basically the opposition is carved out of it too because the time allocation rams it — if it doesn't meet the major concerns of labour, if it doesn't in legalese commit to the words the minister has given us? What do you think are some of the things that might possibly happen if we see that? Is labour just going to shrug their shoulders and say, "Oh, well, we gave it a good shot"?

Ms Sherwood: Clearly I'm not in a position to take a position for the leadership of labour. Obviously people will feel that they've been used, that it's been part of a public relations ploy on the part of this government to indicate a concern and a willingness to listen without any real substance to that concern. The position of labour has been very clear that if this government attempts to ram through legislation that will not have any credibility to one of the workplace parties, the effect of that is inevitably going to be massive public service disruption, if not next week, at some time.

The Chair: Mr Christopherson, I owe you an apology. It must be the watch. It's only five minutes per caucus.

Mr Christopherson: Oh, sure. Once I'm on a roll, then you cut me off.

The Chair: We must move to Mr Hudak.

Mr Tim Hudak (Niagara South): Thank you, folks, for your presentation. In respectful disagreement, I think there's quite a bit of substance to this process and quite a bit of change in the government's initial position. For

example, the labour movement said, "Don't encourage contracting out," and we didn't put that in the bill. They said, "Make sure successor rights are maintained," and we agreed. It's in the bill. They said, "Don't take away the right to strike for those sectors that can strike," and we agreed. We took it out of the bill. They said, "Don't use the Dispute Resolution Commission or the Labour Relations Transition Commission," two government-appointed commissions. We listened, Chair, as you know, to the labour movement's recommendations and we're going to use the Ontario Labour Relations Board, which has a long-recognized history of no bias and fairness.

We think that's a good way of going to where we want to go, that is, to an era where government is more efficient and responsive to taxpayers, in other words, affordable to taxpayers. The minister has set out that direction. Through these hearings we're asking, what principles do we need to follow to get to that place, with input from the labour movement and the firefighters and all those we've heard today and from AMO? How do you get to that era?

Mr Christopherson's approach, that we should have had the amendments beforehand, would have been getting the cart before the horse. We're here to listen and decide how best to reach those principles. It would be unprecedented to bring amendments forward before the committee hearing process began. The minister clearly outlined her recommendations on where we want to go, so the amendments will tell us how to get there. If there's such a cry for amendments, I haven't seen any NDP amendments and I haven't seen any Liberal amendments. In fact, Frances Lankin, one of the leading intellectuals in the NDP organization, said on the CBC the other night that they're not planning to bring amendments forward until Monday. That's the routine process. The expectation is, how do you get there and what's the best way, and then all parties will bring their amendments forward.

We've heard why Bill 136 is important. You mentioned that you didn't see any reason why we would need to change the legislation in any way. We heard from the hospital sector. The Ontario Hospital Association talked about the merger of the Toronto General and Toronto Western, which in 11 years still haven't sorted out many of those collective bargaining agreements. For example, a carpenter working at one site cannot go across to the other site to perform any kind of work. They would have to contract out. I don't think that's fair for the employees there. Certainly when you're wasting resources, that means fewer resources available to the patient, to better health care, to kidney dialysis.

I think it's essential that we get through this process, through this transition fairly for union and non-union workers, but to assume that we can let the status quo be maintained and have 11-year or 12-year mergers of hospitals, or more, I think could be a radically inefficient use of resources. I don't want to see the model we've seen at the General and Western, where carpenters managed by the same group of people can't even go from one work site to the next, spread out through the rest of Ontario.

You talked about final offer arbitration. That's used, I think, in some other jurisdictions and used in other labour-management organizations. What I like about final offer is that it encourages people to get back to the bargaining table, to sort out the issues locally, because you either have a big win or a big loss. I remember talking to somebody from the police association about this and he talked about the Toronto Blue Jays. He said the Blue Jays don't like going to final offer arbitration because they want to settle the issues. I think essentially that's what we wanted to encourage in this legislation. We like to see you bargain at the local level as much as possible so you don't have to rely on the arbitration process.

I think too if you look at the statistics, the health care system relies very heavily on arbitration. I think almost 50% of the agreements covering 50% or more of hospital employees have gone to interest arbitration.

By having a tool like final offer arbitration, I think that encourages the workers to get together with the employers to sort out their issues so that either side, facing great uncertainty, has every incentive through final offer to get to the table and hammer out these issues and not have to go to what is often a costly, legalistic method of arbitration.

I'm going to get back to that point. Do you disagree that final offer arbitration encourages people to sort out those issues at the local table?

Ms Sherwood: I entirely disagree. My view is, and our experience has certainly been, that it has a chilling effect on the negotiating process, where both parties are very reluctant to take a position for fear of having that position rammed down their throats at a later point in the process. It simply doesn't work.

Mr Hudak: So your view is a final offer.

Ms Sherwood: Could I have an opportunity to respond to some of the other points?

The Chair: Very briefly. We should be moving to Mr Patten.

Ms Sherwood: I'm sorry, but I didn't have any opportunity whatsoever to respond to any of the comments he made. I'm wondering if I could just take it briefly.

The Chair: That's up to Mr Patten. It's his time.

Mr Patten: Go ahead.

Ms Sherwood: Thank you. The first point I would like to make is with respect to the MPP's comments that it would be unprecedented for these amendments to be tabled so that parties could have the opportunity to have a full and fair discussion of the issues that are set out in the amendments. In our submission, it's simply unprecedented for the government to announce a week before the committee hearings that the legislation is going to be changed entirely in its substance and effect.

Mr Hudak: Well, we could have done that during amendments but we chose to do it beforehand to listen to the committee process.

Ms Sherwood: If I could have an opportunity to respond, please.

Mr Patten: Listen to her now. It's my time.

Ms Sherwood: Thank you. In our submission, it is simply unprecedented to expect parties to engage in any kind of full and informed comment with respect to legislative provisions they have not been able to see. In Mr Christopherson's words, it makes a sham of the entire process.

In the second point you made, you indicated it would be unprecedented for the government to table those kinds of amendments. I believe there is precedent where legislation has been substantially altered for those amendments to be tabled prior to committee hearings. Although I was not in the position of making submissions at that time, my understanding is that with respect to the long-term-care legislation, where substantial amendments were proposed to the legislation, those amendments were tabled and left for public discussion so that parties were able to engage in full and informed debate with respect to the legislative provisions that were going to be enacted.

1130

Mr Patten: Okay. Can I —

Ms Sherwood: Certainly. Thank you for giving me the time.

Mr Patten: You're welcome. Just to build on that, we must remember that the process is that the government is putting forward the legislation.

Ms Sherwood: Yes, of course.

Mr Patten: It's their legislation and it's their bill. In an instance like this, some would say you should really call the bill out of order, because it is so substantially different that it should be redrafted and resubmitted. That the opposition should somehow make their amendments beforehand is absolutely ridiculous, because we're in a position of responding as critics, responding as loyal opposition, and we're responding to what's there and responding to people like yourselves who come to make representation. Then we draft our amendments and hopefully we have fair time — which we don't in this instance at all — to make them, knowing what we have to deal with. So it's complete nonsense when you talk about that. It's complete crap, you know it is, so don't even talk about it.

It's not what they're taking out. He says they've already explained what they're taking out. The problem, and the question of course, for anybody who has any degree of scepticism, which prevails, is what will be put back in; that's the major concern. That's why people want to see these amendments, because they're worried that there will be additional criteria etc.

Along those lines, I don't know if you were here when I read this to the firefighters. They said they would be very, very worried that this kind of thing would happen.

In the minister's statement last Tuesday at our hearings, she said that the government proposes to change Bill 136, the Fire Protection and Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act "to create expedited time lines to ensure the quick and timely resolution of disputes in the police, fire and hospital sectors. It will continue with the Bill 136 changes which provide arbitrators with more choice to deal with collec-

tive bargaining disputes in the police, fire and hospital sectors. More choice is going to include...mediation," — I almost said "mediation;" it might not be a bad idea — "mediation arbitration and final offer selection during the arbitration process."

This is the one that worries me and I think worries most, and I'd like your reaction to it: "As well, we will continue to require arbitrators to consider various criteria such as a public sector employer's ability to pay and the extent to which services would have to be reduced if funding and/or taxation levels were to remain unchanged."

Ms Sherwood: Much of those criteria are already contained in HLDAA, but the difference would be that there's a distinction between arbitrators being allowed to consider that and arbitrators being required to consider it or required to make their decisions in accordance with those criteria. In our submission, once arbitrators are required to make their submissions in accordance with the criteria, the credibility of the whole system is undermined.

Mr Patten: That's right. Their changing all those acts, and also the purpose statement, as you identified, with best practices it seems to me really will restrict the arbitrators from going in with the natural procedures of trying to be a fairminded person. There's no word "fairness," for example, in this piece of legislation or in all the recent ones you may have observed. That word "fairness" has been completely taken out.

Ms Sherwood: That's certainly our position.

The Chair: On that note, on behalf of all the members of the committee we thank you for coming before us this morning, and again I want to thank you for your flexibility in switching your times with another deputant.

Colleagues, I'd just draw your attention to the materials presented by our clerk this morning. These are the briefs from the deputants in Thunder Bay yesterday for the teleconferencing. I think, Mr Patten, you were particularly interested in this.

CHINESE WORKERS SUPPORT NETWORK

The Chair: We're now about to hear from the Chinese Workers Support Network, if you'd come forward please. Good morning. Welcome to our committee. If you would please introduce yourselves for the Hansard record.

Mr Daniel Yao: Good morning, ladies and gentlemen and members. Thanks for the opportunity of letting us come here to express our views. I would like to introduce us. We come from an organization called the Chinese Workers Support Network. My name is Daniel Yao. Here is Mr Ken Cao. Ken Cao is one of the committee members in the network. Ken will start by presenting our views, particularly regarding the wage protection program.

Mr Ken Cao: Good morning, ladies and gentlemen. It gives us great pleasure to express our views to all of you. First of all we'd like to give a brief introduction of the Chinese Workers Support Network. It is organized by workers as a self-help and mutual-help group. At present we have about 200 members in Metro Toronto, coming from different occupations. The objectives of the network

are to enhance networking among workers, facilitate skills of members, promote mutual-help initiatives and share information and access to job search, employment and training opportunities.

Recently, the Minister of Labour proposed as part of Bill 136 to cancel the employee wage protection program. We regard that this will only jeopardize the existing employment standards which already do not adequately protect the basic rights of workers. Under the existing poor economic times, employees tolerated their utmost to keep their work, and unscrupulous employers could easily squeeze and exploit their employees. Such a move would only grant irresponsible expediency to employers. After discussion in our group, we would like to submit our views to the government. We desperately hope the Ministry of Labour could change their mind and maintain the existing EWPP and also improve the scheme so it could be more beneficial to government.

Coming next are the reasons for objection to cancelling the EWPP.

First, the very basic rights of workers — work and get pay — cannot be protected. Currently workers use the EWPP in three ways: when an employer does not pay a worker, when an employer does not follow the ministry's order to pay or when an employer is bankrupt. If EWPP were cancelled, whenever employers refused to pay wages to workers, owed wages or during bankruptcy, employees would end up with nothing. They worked and did not get paid.

Some of the Chinese workers worked and tolerated their employer to the last minute even though they knew they were owed wages and the company was under threat and risk of going down. They had all the best intentions to help employers overcome these difficult times. They did not want to see themselves depending on employment insurance or welfare support. In return for their understanding and tolerance of employers and support of the government, how could our government penalize them by just laying their hands off completely? "Work and have your wage" is the very basic right of workers; it is not even comparable to pay according to your work. If the Ministry of Labour couldn't even take up their role in protecting this very basic right of workers, we really wonder what would be the purpose of setting up the ministry.

Second, social justice cannot be maintained. In business activities, the basic rule of conduct is that employers pay for work done by employees and employees have to work to earn their pay. When employers violated this basic rule of conduct, EWPP helped to realize the efforts of government in maintaining social justice. It also showed the will and ability of responsible government towards unscrupulous employers. It revealed to people that their government took up their duties responsibly. These efforts of government helped to build a country of justice, human rights, and gained people's support and confidence. Once the EWPP was cancelled, it indicated that government would not take up the responsibility any more. Undoubtedly,

social justice could not be maintained and people's inherent support and confidence in government would be lost.

1140

Our arguments: Somebody said that cancelling the EWPP would help the government to save some money. First of all, government should only save money that should not be spent, but for this kind of protection of the very basic workers' right, it should be treated as essential as basic medical care services and should not be abolished. Furthermore, if employees could not get their wages, they would have to apply for support from employment insurance, and as a result money would still be spent by the government. You could also consider changing the existing financial arrangement of drawing revenue only from the government and let employers pay for their share. In this way, it could really help government save some money, yet achieving the goal of realizing social justice.

Somebody said that to cancel EWPP was to get away from too many controls and regulations on business activity which hindered market development. Our point is, government should not have too many regulations on normal business activity. However, owed wages or refusal to pay wages apparently are not within the context of normal business activity. It is a matter of violation of rule of conduct in which government should intervene. It is good and essential for government to intervene, just like government needs police to intervene in unlawful activities.

Some said that owed wages should be settled in court. However, most of these cases happened in smaller workplaces where employees were not working on high-skill jobs and wages were usually low. For the group of workers who earn barely minimum wage to pay the high legal fees to go to court is unrealistic and is just like adding frost to snow. If even the big and mandated Ministry of Labour had difficulties in collecting money from employers, one could imagine what a vulnerable worker would be faced with in such pursuit.

Our suggestions: We suggest maintaining and improving the existing employee wage protection program, first, to give more power and flexibility to the Ministry of Labour in collection from employers. Status and authority of orders to pay issued by the ministry should be raised. The Ministry of Labour's own statistics for 1995-96 showed 75% to 83% of amounts assessed for unpaid wages, vacation pay, termination and severance went uncollected. This reflected inadequate authority and power for the ministry to enforce the protection, so the ministry should improve on its existing conditions and raise the mandatory functions of the order to pay.

Second, the employee wage protection program should be contributed to by the government and employers. Money from employers could come in as part of their business registration or a percentage of their annual business transactions. Companies frequently violating labour law and seeking compensation from EWPP should be required to pay for additional deposits when they open new businesses.

Third, for proven cases of employers violating employment standards a penalty should be issued and the penalty should go in the EWPP.

Fourth, the existing ceiling amount of EWPP is \$2,000. It should be changed to a maximum of a month's salary and no more than \$2,000 to limit the time and dependency on the program.

Finally, amend existing bankruptcy law so that owed wages could come as the first priority, even before banks and secured loans. Usually the proportion of owed wages to a company's total debt at bankruptcy is not that high. However, owed wages to workers mean they could pay their rent, food and daily necessities. The bad debt to banks definitely affects their annual returns, which were in billions of dollars. However, problems arising from unpaid owed wages would be a matter of survival to the workers. Lowering priority to banks might stimulate active monitoring of their debts on business.

The Chair: Thank you very much. We have plenty of time for questions. We'll begin with the government.

Mr Hardeman: Good morning, gentlemen, and thank you very much for your presentation. It was a very thorough presentation, not only pointing out some of the concerns you have with the bill as it is before us but some recommendations that will help make the situation better.

Recognizing that the bill eliminates the government-funded part of the program as it relates to where companies go bankrupt and there is no money to pay the workers, the government pays the workers out of general revenues. The program, of course, has been set up for a number of years and the original intent, and honourable intent, I'm sure, was that the money would be paid out to the workers and then it would be collected to a great extent from the employers and the government would just make up a small portion of that cost.

Time has passed and the program has been in place for a while. In fact, \$200 million has been paid out and \$8.5 million over that period of time has been collected back. It becomes quite obvious that the program was not working the way it should, and our government's position is that we don't think it's appropriate that taxpayers should make up that shortfall. I appreciate in your presentation that you make some suggestions that would help that.

As it relates to, just quickly going over some of your suggestions, the ability of the Ministry of Labour to be more involved in making sure that these collections take place, Bill 49 includes that the minister can bring in the private sector to collect on behalf of employees who are owed wages.

My understanding is that presently there are tenders out for the private sector to put forward their proposals to get the job of helping to collect wages owed. Again, it becomes very difficult to do that from a company that has gone bankrupt, but we heard in a presentation the other night that a lot of this money was people not paying the bill, not because they were bankrupt but just because they didn't want to pay it. The example was given of a lady working as a nanny for a doctor who, at the end of the time when the nanny was not required, refused to pay.

That type of thing, now the Ministry of Labour will be able to make a decision based on whether the money is owed, and if the money is owed, turn it over to a collection agency to get it on behalf of the employee who is owed the money. I think that will go a long way to help deal with some of the employers who are unwilling to pay. That part will not deal with those who are unable to pay but it will deal with the ones who are unwilling to pay.

I think it's also important to point out, as you mentioned, that the Ministry of Labour has not been as vigilant as it should be in enforcing the Employment Standards Act. I think it's fair to say that they have been more vigilant in the last few years than they were prior to that. If my statistics here are right, the Ministry of Labour in the previous government, enforcement was one area that they didn't —

Mr Hudak: It was weak, wasn't it?

1150

Mr Hardeman: I would suggest that wasn't one of their highest priorities. They cut the number of employment standards officer positions. There were 181 in 1991-92 and down to 166 in 1994-95. That was one of the areas that the government didn't deem it was necessary. The backlog of cases in that time went up to 9,985, the highest-ever backlog. They cut the Ministry of Labour by \$63 million, more than 33% over five years. I guess the intention at that point was not to enforce the employment standards and, of course, also not to enforce the payment of the money that was owed to workers. We have increased that and we think that's where the emphasis should be put, that we should enforce the employment standards and also the paying of the wages.

One other area you talked to was the issue of the alternative, unemployment insurance, that workers are staying on the job because they don't want to go on unemployment insurance. It would seem to me that if they're not getting paid — unemployment insurance is money they've put in to cover them if they are not working. That is not a government subsidy, that is not a government grant; that is money owed to workers who find themselves unemployed. I have some concern, even in a presentation, that anyone would consider that unemployment insurance is the same thing as having someone help you. That is not help; it's insurance that you've bought. In fact, presently there is more money going into that than is coming back out. I think it would be important that we recognize that.

The other issue you mentioned was bankruptcy. I think the provincial government is on record with the federal government to suggest that they should look at the Bankruptcy Act to make sure that workers' wages take priority over other expenses. As it presently is written, in most bankruptcies wages go far enough down the line that they're not a preferred creditor, and in most cases they do not get their money. We think that the workers' wages should be at the front of the line before some of the other secured creditors. At this point in time, the federal government has not seen fit to change that but we are still hopeful that they will in the near future.

The Chair: Mr Hardeman, your time has expired.

Mr Hardeman: Again, we thank you very much for your presentation and we want to assure you that we will be working towards solving that problem.

Mr Patten: I just have a few short comments — excellent presentation, by the way. It's significant that these are your concerns and you're addressing just this one area. We have been suggesting that for Bill 136 purposes this particular program has nothing to do with the intent of the bill. It has absolutely nothing to do with it. When you address the issues of this program that's there, you're really talking about helping probably the lowest-paid people in our society, the people who are the most vulnerable, people who are exploited, and it's being removed. We have concerns about that. We're against taking this program away, by the way, but it will be up to the government to determine that because they have a majority.

It seems to me your statement, "If the Ministry of Labour can't take up the role of protecting workers, we really wonder what would be the purpose of setting up a ministry," is a very good question. One of the problems they had is that the ministry has been cut significantly, so a lot of the follow-up to check on programs — what's happened is that they have fewer investigators to do that. There go the employers again getting off on things. It's not only in this program; it's the same thing with workers' compensation. It tells you about this government's values, where they place them. It's not with the workers, it's not with the employees, it's not with the average person who is trying to scrape out a living; it's with the employers, and they are usually the ones who have more resources and are usually the richer in our society. So it tells you where their values are.

You point out that if people don't get their wages, then they don't even have money to carry them over, they may lose their credit at the bank, they may not be able to feed their families, they have to go on UI and then perhaps even on welfare and it's very destabilizing. I think your point is well taken. We accept your arguments on this. We will propose to maintain the program, but I think you'll find that this government will not support that and that they will do away with it, which we find regrettable. Thank you for your arguments. We will certainly use these in trying to make the argument that the government should retain it.

Mr Christopherson: Thank you very much for your presentation. This piece here is just one of the most ugly aspects of Bill 136. As my colleague Mr Patten has said, it has nothing to do with municipal restructuring, absolutely nothing, and like the pay equity take-aways, it's like a drive-by shooting: "While they've got Bill 136 on the floor and everybody is looking over here, let's grab a couple of more benefits from the most vulnerable workers in society." That's what we're talking about. In many cases, in most cases, the lowest-paid workers in our entire province have some protection under pay equity, and the employee wage protection plan has nothing to do with restructuring, and those are the two things this government is going after, in addition to everything else, in Bill 136.

It's just so ugly and so obvious to anyone who looks at it that that is what they're doing.

Let's go back. You well know that it was the Lark case, as the Employment Standards Working Group point out on Wednesday, that pointed out where there were hundreds of garment workers, Chinese-speaking garment workers, as it turns out, who showed up for work one day and found the doors locked. The place was closed, they were owed thousands of dollars and the same board of directors went on to open up at least two other factories and shut them down in the same fashion and left hundreds of more minimum-wage workers out in the cold with no money.

We stepped in, as an NDP government, and said: "Enough is enough. If the feds aren't going to act" — unlike the government backbenchers who mouth the party line about it being up to the federal government. The federal government has not done it so far. That still doesn't help; telling workers that doesn't help anybody, although it is true that the federal Liberals had a chance and they dropped that part from their bill in the last term of government. That doesn't help workers who are left out in the cold.

This plan came in so that workers who live from paycheque to paycheque making minimum wage in most cases have a chance to survive when they've been dumped on. The argument from the government is just so thin and specious and unsupportable. First of all they say that because the Ministry of Labour hasn't been able to collect the money after it's been paid out to the workers — and that's the plan. The workers don't have the ability to go after these big employers. They're making minimum wage. How are they going to hire a lawyer to do it? So the government covers their money for the time being and uses the force of government to go after them.

The current Tory backbenchers argue, as Mr Hardeman did, that because that money hasn't been collected, therefore the whole thing is a failure. But that's to suggest, in my opinion, that if the force of the provincial government can't get the money out of them, how the hell do you expect a bunch of workers who are owed a lot of money, minimum wage, to do it? You're prepared to just write them off.

The fact of the matter is, you're so proud of the privatization of your new collection agency, you ought to be standing on the hilltop saying, "Don't worry, we'll be able to take care of it now because we've got this new-fangled system." But you're not saying that either.

The fact is that it's a question of justice, and again, the Employment Standards Working Group raised this the other night. We don't say to rape victims, "All the money that is spent to catch the person who raped you is your bill." We all share in that cost as a part of society. In fact, the victims of crime compensation fund gives money, compensates people, for pain and suffering when they've been victims of violence. We all pay that. There's no collecting back. We recognize that as a natural piece of our justice in this society.

When banks are robbed and the police spend who knows how much money going after the bank robbers to return the money, is the bank sent a bill for the police work, for the prosecution work? No. If there's credit card fraud and months are spent on an investigation by undercover officers to find out what's going on with all this fraud, is that money then billed back to the bank? No. We pick that up as the price of making sure there's justice in our society. But when it comes to workers, minimum wage workers who have been stiffed for money they're owed, you're prepared to turn your back on them and say: "Oh no, we're not going to pay that. That's not part of our responsibility."

This is such a crime and it's so vicious and mean-spirited and points out the direction of this government that it's just beyond words. I want to tell you that this one — because I was there when we developed this and I grant you it's not perfectly funded and the employers should pay for it. But you're not offering a different way of funding it. You just want to kill it and leave all those tens of thousands of workers out in the cold. With the other changes to your labour laws, a lot more of those people are going to be left out in the cold and now they won't even have this to go to.

I guarantee you we will continue to fight about this and I personally will argue and scream about this long after they've rammed through Bill 136, because this is just patently unfair and morally bankrupt.

The Chair: Thank you very much, gentlemen, for coming before the committee with your advice this morning. We appreciate it.

Mr Yao: Could I have a quick response?

The Chair: Very briefly. Mr Christopherson used his time.

Mr Hudak: You can have my time.

Mr Yao: I'd just like a quick response. From our experience, a lot of the workers who are using the program are the people who are coming from places that are bankrupt and have been closed down. From my experience, not too many are cases of employers that are unwilling to pay. Most of these cases are closure and bankruptcy.

Mr Christopherson just talked about the Lark case. Actually, the Lark case is just part one. To me there are always other cases very similar in nature to Lark that are still continuing in society. Recently, I met with a worker who told me he worked here for five years and he had at least three different experiences of getting into closure or bankruptcy and he didn't get the money. Something has to be done in this area, how to stop this thing or how to provide the kind of minimum protection to these workers before the wage protection program is going to be killed.

The Chair: Thank you very much. You didn't actually have any time to give away, but I'll assume that was unanimous consent. Colleagues, that's our last presenter this morning. We'll reconvene this afternoon at 1 o'clock.

The committee recessed from 1203 to 1303.

ONTARIO COUNCIL OF HOSPITAL UNIONS

The Vice-Chair (Mr Jerry J. Ouellette): We'll call this afternoon's session to order. If the presenters seated could identify yourselves, your organization and your names for Hansard, you have 30 minutes for presentation. Any time remaining after you make your presentation is divided equally between the three caucuses for questions and answers.

Mr Michael Hurley: Thank you very much. My name is Michael Hurley. I'm with the Ontario Council of Hospital Unions of CUPE. With me today is Margaret Evans, research officer from the Canadian Union of Public Employees, and Vanessa Kelly, also a research officer. We thank you for the opportunity to make a presentation about Bill 136.

I would just like to start off by saying that we represent 20,000 workers at 90 hospitals across Ontario. We represent people who do cleaning, registered practical nurses, dietary staff, laboratory technologists and technicians, laundry workers, paramedics, ambulance staff.

So you get a reference on where our membership is at, about 80% of them are women. Many support their families on their incomes. Their average income is \$26,000 a year. They're spread out in communities like Port Colborne, Stratford, Owen Sound, Lindsay, Oshawa, Perth, Smiths Falls — all across Ontario.

These workers don't have the legal right to strike, as you know. They've been under compulsory binding arbitration since 1966 when the Hospital Labour Disputes Arbitration Act was introduced. I know that you're aware that it's the policy of the United Nations International Labour Organization that when the right to strike is taken away from a group of workers because they're deemed to be essential, there must be a fair, independent, impartial system for resolving disputes for those workers. Otherwise their actual condition is not too far removed from enslavement, really, because they are chained to work, they are deprived of the right to strike and yet they are doomed to a system for resolving their contract disputes that can strip them, in round of bargaining after round of bargaining, of any of their contractual rights.

But more significantly, in your deliberations around Bill 136 you want to consider that groups of workers in our situation need to have a just, independent system for dealing with disputes. Otherwise that system is going to fail, and when it fails, that means people will exercise strike action whether they have the legal right to do that or not. That would then disrupt essential services, which of course no one wants to have happen. So societally, Ontario and other jurisdictions have a real interest in ensuring that groups of workers in this situation are treated appropriately.

Just again to reference you in terms of where members are coming from, you know that they are employed in the Ontario hospital system, which is undergoing a radical restructuring. Up to 60 hospitals are in the process of merging or closing. I'd like to put on the record for you,

because I know part of this legislation deals with the need to resolve restructuring issues, I'd just like to make it clear that wherever hospitals have restructured there have been agreements reached, voluntarily or through arbitrated processes which the parties have agreed to, that have resolved all of the complex issues, including seniority rights, which have arisen as a result of restructuring.

There's a huge downsizing going on. There were 220,000 people employed in the hospitals in 1990; there are 160,000 today. So 60,000 people have lost their jobs, and the Health Sector Training and Adjustment Panel, which is funded by the government, predicts the loss of another 50,000 people over the next three years. So you're going to see the workforce cut in half.

At the same time the Ontario population is increasing, there are fewer hospital beds, people are staying in hospital for shorter stays, the patients we're caring for are sicker. In 1995, the Ministry of Health indicated that the productivity of this workforce had gone up by 18.5% in that one year alone. I think you're aware the OHA's just recently released a report that substantiates that the work these people are doing is back-breaking, emotionally, physically and mentally exhausting. They are collectively working very hard to try to keep a health care system together despite deep funding cuts. They're working very hard for the people of Ontario.

They're working in an environment where everyone is afraid of losing their job. Nobody expects that they have a job for life in the hospitals by any means. The threat always exists that these places can be closed. Again, half the workforce will go in a 10 year period. No one expects they have lifetime job security, but people do expect that the limited job security they have in the contracts they've negotiated with the hospitals and the hospital association will continue.

It's in that respect that they're very concerned about Bill 136. They're especially concerned because in the briefing that the labour unions received from the Ministry of Labour, the contracting-out protections that exist in the hospital collective agreements were specifically mentioned as the kind of provisions that the government wanted to have access to, to change or to remove, and that they were prevented from doing as a result of the current arbitration systems.

I just reiterate that our members are working in a very insecure working environment and that, as you know very well, they don't do this work as a summer job. They have families to support. They cannot afford additional risks of being insecure and they cannot afford a future where their wages could be cut by three or five dollars an hour. They look to how the government dealt with the doctors who work in our system with us, side by side, and they see the doctors in a situation where there will be no layoffs for that group and where there are in fact generous wage increases. This of course is much different from the proposal before you and before us in terms of how our terms and conditions of employment will be dealt with.

1310

Bill 136 would set out some fundamental changes to the way in which we bargain our contracts. I'd just like to touch on some of them, if I could.

First of all, the theory for changing the current arbitration system is that there are delays in releasing an arbitration award and that the arbitration process can take a very long time to achieve an end product. That is true. Arbitration can take some time in order to reach a decision. In the essential service system, I think the test of whether the arbitration system works is whether the parties have agreed to live under it and whether there have been disruptions of essential services during this period. There have not been. Police have not been going on strike because they're dissatisfied with the results of arbitration awards, hospital workers haven't, and firefighters haven't. There are delays in the arbitration system. Often those delays are caused by the fact that there are lengthy periods of time spent in collective bargaining rather than in arbitration itself.

With respect to the statutory criteria and the best practices in Bill 136, we'd like to be clear that if arbitration is to be independent and if it is to be impartial, then the government can't skew the arbitration process by directing arbitrators to be cognizant of only some factors in making their decisions and to give those factors special weight, especially when those factors favour the employer and especially when the government, in the case of ability to pay, is actually ultimately responsible for how much funding these employers receive.

With respect to imposing time limits on arbitration boards, the effect of time-limiting the arbitration process will be to restrict the ability of experienced arbitrators to hear cases in the public sector. People who are well respected and people to whom the government turns to resolve difficult labour disputes — for example, to mediate — are quite busy. There are major contracts for huge groups of workers. CUPE has some 26,000 under central bargaining; ONA has tens of thousands under a central collective agreement; the service employees do also. These are very complex negotiations. They resolve issues for tens of thousands of people at one time. They need to be dealt with from a perspective of experience and impartiality. We fear time limits would have the result of restricting the participation of people who could hear these cases to those who are not busy, to those people to whom the parties are not looking to resolve disputes because they're not that experienced.

With respect to the additional powers being given to the Ministry of Labour in the proposed Bill 136 to not only identify an arbitrator but also to impose a process on the parties, I'd like to talk about that for a minute. It is in everyone's interests that as many decisions as possible be made and resolved by the parties to the particular labour dispute, because they have to live together after this is over and everybody has to live with the end result.

The process that's appropriate to be used in collective bargaining is a process which should be worked out between the employer, in our case the hospitals, and the

union. If the Ministry of Labour imposes a process like final offer selection on the parties, then that is going to have a very serious impact on the future relationship between the parties to collective bargaining. I think we should be very, very careful about that. If the union and the employer cannot identify the process, then surely it should be in the hands of the arbitration board. I would just like to flag for you that the tripartite arbitration system which has been working successfully in health care, and other essential services, very much needs to remain in place. The roles of nominees to these boards of arbitration are extremely important in helping to resolve issues, in helping to ensure that the award itself is a balanced one and that it will not result in upheaval afterwards.

I'd like to talk about the processes of mediation-arbitration and final offer selection. I'd particularly like to put on the record our difficulty with final offer selection. I'm sure you know very well, because you've been examining this legislation, what final offer selection is and what it implies. Basically, it's possible for the employer to put together a proposal to take from the collective agreements the job security sections of those agreements; for example, notice of layoff or work in the bargaining unit or contracting-out protections. It's possible to put a proposal like that together, it's possible for the union to put a counter-proposal and it's possible that the union could lose all of its job security out of its contract in one fell swoop, in one decision at the very time when our members are most reliant on that job security.

I can tell you with absolute confidence that we will not submit ourselves to that level of risk. We won't. We would not go to arbitration under those circumstances. We need to talk frankly about that. I'm going to come back to that in a second.

The limitations on the hearing process: There are proposals that the unions would not necessarily be able to produce evidence at arbitration to substantiate their position if it had not been produced during the mediation phase of mediation-arbitration. I want you to think that if the true purpose of this act is to encourage people to engage in collective bargaining and resolve disputes wherever you can, then when you approach mediation from the perspective of having to disclose all of the evidence that you will subsequently want to put in play at arbitration, otherwise you would be forbidden from doing that, then you burden the bargaining or the mediation part of the process with all of this technical information which is just going to cloud things and obscure for the parties any middle ground in terms of reaching agreement. We're quite concerned about that.

We're quite concerned also about the proposal that the arbitrator could restrict the right of the parties to produce evidence in the sense that they could say: "We heard a lot from both the hospital and from the union about the wage issue in bargaining. There's no more information that we need to hear. We don't actually have to have a hearing on wages. I know what I need to do. I'll just make an award." There are natural justice, due process implications in those kinds of limitations which are very frightening from the

perspective of the union. I would urge that you reconsider those and the other sections of the legislation I've touched on.

I'd just like to come to the goal of this legislation. One of the stated goals that we heard for introducing this legislation was that the government was interested in having a smooth transition during restructuring, and that particularly they were concerned that there not be labour disruptions during restructuring. I can tell you — I'm not making an idle threat, and it gives me no pleasure to be here today to make this statement to you — with absolute confidence that the hospital workers represented by CUPE will not submit to an arbitration system which is not impartial, which is not independent, which is burdened with restrictions that limit our rights under law and due process and natural justice, which imposes upon us risks that are totally unacceptable. We would not do that. We would not go there. We would strike first.

I ask you: What would be the possible sense in introducing amendments to the arbitration system that could result in this kind of disruption of essential services? Does that not completely contradict the purpose of this legislation? I would also put to you that if on Monday, when we see these amendments, there are restrictions proposed on the right to strike and if those restrictions result in people coming to arbitration and if that arbitration process looks like the one which you have set out here, you're going to face massive disruptions across the public sector, because workers will simply not put up with this. What the government has proposed here in Bill 136 is very serious. It goes far beyond the scope of restructuring.

1320

I'd just like to conclude by reminding you that in the hospital sector in Brockville, in Ottawa, in Windsor, in all the communities which have restructured, where agreements have been required to work out complex issues like the transfer of workers and programs and services and seniority and what rights those workers carry and what will happen to other people and the size of their severance packages, the unions and the employers in the hospital sector have been able to voluntarily work out all of those issues. There is no need for most of what is in Bill 136. I particularly caution you around the changes to collective bargaining either for workers who currently have the right to strike or for those like ourselves who do not have the legal right to strike.

Thanks very much. If there's time and you have questions we would be happy to answer them.

The Vice-Chair: Thank you, Mr Hurley. You leave approximately four minutes per caucus for questions, and we begin with the official opposition.

Mr Patten: Michael, it's good to see you again. This is pretty serious stuff, as you were saying. I've been asking especially those who are the essential worker groups — the firemen, the police and the hospital workers — this question. I don't know if you had a transcript of the minister's comments at the opening of the hearings here, so I'd like to read a little section to you which I think addresses your major concern, and that is, we're prepared to

live with this if we're convinced we've got arbitrators who are impartial and independent and they're not fettered with a whole variety of additional criteria that are really going to tilt the balance in favour of the employer, or either way for that matter, their job is to be fair and is to provide mechanisms so that the two parties can really work out an arrangement that they both feel they can live with, they may not be perfectly happy with but can live with.

I'd like to read this to you because it sounds to me as if you're headed for a confrontation. This is what the minister said, and she's referring here to the government's proposed changes to Bill 136. These are the proposed changes after the time allocation motion that came into the House.

"The government's proposed changes to Bill 136 will change the Fire Protection and Prevention Act, the Police Services Act and the Hospital Labour Disputes Arbitration Act to create expedited time lines to ensure the quick and timely resolution of disputes in the police, fire and hospital sectors. It will continue with the Bill 136 changes which provide arbitrators with more choice to deal with collective bargaining disputes in the police, fire and hospital sectors. More choice is going to include using mediation, mediation arbitration and final offer selection during the arbitration process."

This is the sentence I think is most crucial:

"As well, we will continue to require arbitrators to consider various criteria such as" — which means these aren't necessarily the total criteria she's referring to, because we haven't seen the amendments — "a public sector employer's ability to pay and the extent to which services would have to be reduced if funding and/or taxation levels were to remain unchanged."

I would get worried in not having the amendments before us. That's why I get worried and I suspect why you're probably worried too. But does that provide any consolation to you?

Mr Hurley: No, absolutely not. In fact, it fills us with grave concern. We're anxious, as you are, to actually see the amendments. But unless the government can move off these kinds of changes to the arbitration system, then I'm afraid that the outcome is a bit of a foregone conclusion, for us anyway. We simply will not agree to submit to that kind of system, because it's not a fair system. It's not impartial. It's not neutral. It's basically been told and directed what outcomes are expected and been given the tools it needs in order to achieve those outcomes. That is not acceptable, unfortunately.

Mr Patten: The government side argues that it's standard practice to not have amendments. We submit that the proposed amendments that we haven't seen yet are so essential to the legislation that you can make a case to say you should redraft the legislation and resubmit it, because it's so fundamentally changed. It's normal practice, if you're talking about peripheral issues or non-substantive issues in a piece of legislation, to submit them. Why do you think they don't want to submit the amendments before next Monday?

Mr Hurley: I'm very concerned that the purpose of delaying the disclosure of the amendments is to forestall job action by public sector workers, to limit the amount of time we have available to us to react to the legislation by taking job action prior to passage of the bill. I'm very concerned, not wanting to be paranoid, that some of the commitments that the minister has made may not be evidenced by the amendments. Of course, people would feel very angry and betrayed about that and there would be a reaction. To be honest with you, that would be my —

The Vice-Chair: Thank you, Mr Patten. We move on to the third party.

Mr Christopherson: Michael, good to see you again. I want to come back to final offer selection. We may all have a good grasp of it here, but part of the purpose of having these hearings in the Amethyst Room is that we have the cameras, and with the House not sitting, this is being beamed live across the province right now. I think it's important for people to understand what exactly are the circumstances that you're saying you will not participate in, because the cards are stacked against you before you even start.

What the government is talking about is a process where negotiations break down, there are two positions, the employer's position and the union's position, and they're both put forward to the arbitrator and at the end of the day the arbitrator decides on this package in its totality or this one. It isn't even the cut and thrust of negotiations where, "I think you're asking too much on the wage side and I think the employer is being far too restrictive in the process for grievances," and you pick and choose and come up with a balanced, fair package — words the current Minister of Labour likes to bandy about but not put into practice.

Your concern is twofold, and please correct me if I'm wrong. One is that the down side of just that system is that if the arbitrator should choose an employer package — and I would say employers ought to be just as worried about this, which is arguably why they're not keen on it — but certainly from your point of view if an arbitrator chooses the employer's package and in that arbitrator's mind it makes more sense on the wage side, on the benefits side and perhaps a couple of others, and you have to wear all of it, there may be some clauses in that last position that take away fundamental rights that might not have even been the focus of much of the negotiation, might not have been the primary focus, but that was something they were insisting upon having, especially if it's a takeaway, and if that package gets taken, as outrageous or unfair as those clauses might be, you wear them, they go with the whole deal.

Now, let's step back. At the same time the government is saying that's the process it wants you to go into, it's also saying that arbitrator has to consider best practices, which of course as we know sounds good and makes sense, like you ought to use the best practices to do anything. Well, hey, give me a break, this is revolutionary thinking. The real concern is labour knows those are buzzwords for what is the cheapest cost, especially com-

pared to the private sector, no matter what. If it's cheaper, that qualifies as better. That's the concern around best practices. What do you mean, best practice?

The other is that ability to pay. Again, if the employer who can raise their own taxes and set their own expenditures — unlike any other employer, they control all of the financial levers — decides not to have enough money in their budget to put forward, you're stopped. If they, the employer, build a final offer that meets those criteria and then load up the other takeaways and other parts of it, you've got a double whammy. You've not only got an unfair process if it didn't have the criteria, but once you put the criteria in there, they can load this thing so the arbitrator says, "This is closest to the criteria that I have to adopt or follow," and then with that comes all these other major takeaways.

Please tell me if I'm wrong and expand on it to make it very clear to somebody sitting at home saying, "Why is the union opposed to an arbitrator deciding which one gets to win and why are they opposed to best practice and ability to pay?" I think it's important we get this message out.

Mr Hurley: With respect to best practices, you would think that it would be a best practice that the people who work in the hospitals are doing the work that two people did only four years ago and that despite the tremendous increases in the number of people we are caring for, we are working very, very hard, have had no wage increases for years and in fact have had wage rollbacks. You would think that would be taken into account. But "best practices" really is code for driving down labour costs and bringing in private contractors. That's what it really is, which we find offensive because we think we're working hard for the people of Ontario and we expected better.

The prospect we're facing under Bill 136 is that, first of all, with the time limits that exist in terms of the production of awards, we're going to meet an inexperienced arbitrator. We're not going to meet someone with experience to resolve our disputes.

The fact that they are told by the government that they have to look at the ability of the hospitals to pay, and the affordability and efficiency, and to maintain and impose best practices on the party, means that the whole process is tilted now in favour of the employers and in favour of reducing government spending.

Remember, it's the government which has made the funding cuts to these employers and is now saying to the arbitrator who makes the decision: "Oh, by the way, the employer has had a funding cut. You need to take that into account."

The Vice-Chair: We're going to have to move on.

1330

Mr Christopherson: Don't worry. We'll keep hammering on it the rest of the day, I assure you. Thanks, Michael.

Mr Hudak: We have to be careful in thinking about who the employer is, whether it's a hospital or a school board. Ultimately, the employer is the taxpayer. It seems to me sensible that we have to always take into account

the taxpayers' ability to pay for those services. Under the social contract, it's true, we in government, MPPs, took a pay cut. We made that permanent. MPPs scrapped their gold-plated pensions and reduced their legislative budget. Because taxpayers are the employers and they pay those bills, it seems to be eminently sensible that when you're talking about any public service, we really have to take into account the people who help pay those bill and ability to pay.

On the topic of best practices, to make sure there is accuracy in the chamber, Bill 136 reads, "To encourage best practices that ensure the delivery of quality and effective public services that are affordable for taxpayers." It talks about quality. I think Mr Christopherson's comments weren't entirely accurate in that respect. Let me give you an example of what that may mean. An arbitrator — and, mind you, it is arbitrators who are doing this, not the government, to correct the record on that too — may say that in the example of the Toronto General and Toronto Western hospitals, where it's taken 11 years or more to bring those collective agreements together, a quality issue may be whether there should be one bargaining agent instead of two. So a situation that currently exists where a carpenter can't move from one site to another to do work and they'd have to contract out, we should resolve that. I think that's what a quality issue is. I think when you look at the arbitrators' decisions, they do take into account quality and, importantly too, can taxpayers afford these services.

The other point I wanted to bring up is on final offer arbitration. You talked about the difficulty and uncertainty. I know there are very difficult jobs in hospitals and uncertainty doesn't make that any easier. So it seems to be very sensible that you want to get through the transition, through amalgamations, as quickly as possible — being fair, but as quickly as possible so that uncertainty doesn't last four years, six years, 11 years. What I see as a strength of final offer arbitration is that it encourages agents to work together as best as possible before they go to that arbitrator. Mind you, the arbitrator has a series of choices. He can send you back for more mediation, he can do mediation-arbitration, or he could do final offer.

The point I want to get across is, the quicker you get through the transition — quickly and fairly — the less that uncertainty is and the more quickly we move to more effective and accountable public service; but also importantly, the more we get the agents to work together, the employer and the employees, the less reliance they have to have on arbitrators, I think the happier they are at the end of the day. That's where I'm coming from on that legislation.

Mr Hurley: May I respond?

Mr Hudak: I just had one quick question. We had some suggestions. When you bring in different bargaining units together, does it make sense to have those bargaining units, through a secret democratic ballot, determine who should be the ultimate representative when you're bringing several units together?

Mr Hurley: Can I answer the questions?

The Vice-Chair: Yes.

Mr Hurley: First of all, with respect to final offer selection, there was a study done of the arbitrators in New Jersey who do final offer selection. They have that in place, in law, in New Jersey. They reported that final offer selection has a chilling effect on bargaining and that in fact it discourages people from reaching voluntary collective agreements.

The problem with final offer selection is that one party to the process risks losing everything. I can tell you, on behalf of the people at the Port Colborne and Fort Erie hospitals in your constituency, that the prospect to them that the few provisions they have in their contract that say that you can't just bring in a contractor to do their work tomorrow and displace them permanently, those people who are working so hard to try to keep the hospital system together despite deep funding cuts, they are working their hearts out for the people of Ontario, that's all they've got in there and you're proposing a process whereby somebody can say, "We award the removal of all of the job security out of their contracts," and it's gone.

If your expectation is that people will submit to that process, I tell you authoritatively, and I hope convincingly, we will not do that. We will not put our job security at risk. We've had huge layoffs. We accept that. Nobody has lifetime job security in the hospitals. I think the public knows that we're working hard. But one thing we will not do is put at risk our families' future livelihoods just because the government has put in place a totally skewed, biased arbitration process.

The Vice-Chair: At that, I'm afraid we're going to have to call it closed. Thank you very much on behalf of the committee here. We appreciate you taking the time to bring your perspective forward.

SERVICE EMPLOYEES INTERNATIONAL UNION

The Vice-Chair: We call the next presenters forward, please, from the Service Employees International Union.

Mr Ken Brown: My name is Ken Brown. I'm the Canadian vice-president of the Service Employees International Union. With me are Michelle Sherwood, a research associate with the union, and Adrianna Tetley, education coordinator of the international union in Canada.

Before I start with my presentation, I might respond to the last question put by the government. I would remind the government that there are 500,000-plus public sector workers who are indeed taxpayers. It's not the duty of arbitrators to decide what services this government is going to provide; that's the duty of the government. If they want to encourage negotiation, they could institute totally free collective bargaining with the right to strike.

SEIU in Ontario represents some 44,000 employees within the various sectors of the health care industry that are governed under the Hospital Labour Disputes Arbitration Act, roughly half of them in hospitals and the other half in long-term facilities — homes for the aged and

nursing homes. We also represent approximately 2,500 to 3,000 support workers in school boards.

We thank the committee for giving us the opportunity to present. We do, however, have serious concerns about the public hearings process. We are extremely concerned that the minister has broken her promise to undertake province-wide hearings on the bill which would give affected groups across the province a realistic opportunity to comment on the substantial changes to the labour dispute resolution process contemplated by Bill 136.

Like every other group presenting in the province, we are also hampered by the fact that we have not the amendments which we understand will be tabled by the minister next week, amendments which we have been told will fundamentally alter many of the major features of Bill 136.

We wish to record our dismay that the short time lines for the public hearing process as well as the inability to debate the actual amendments apparently forthcoming in this legislation have compromised the integrity of a process whose aim is to foster full and informed public debate of the issues.

With respect to the bill itself, the entire premise behind Bill 136 was to speed up the process, to speed up the labour adjustments during restructuring. Yet unions and hospitals say, "Slow down." Bill 136 was originally designed to meet your fast-track agenda to restructure hospitals. The government said that hospitals and municipalities needed it in order to meet time lines. The advice from everyone is that your own time lines don't work. SEIU and other unions have been saying for months that quality of care is deteriorating and workers are burnt out and stressed out.

1340

Yesterday the OHA joined labour's request to slow down. The OHA released a report they commissioned from the business school at the University of Western Ontario. This prestigious business school has said, "Slow down," that hospitals are expected to do in two years what most businesses would take eight years to do. The report stated what labour has been saying all along, that the speed has led to care deteriorating from excellent to satisfactory. I would suggest that in some parts of the province it's less than satisfactory. In my own home town of Windsor I believe that to be the case, not only as a union representative but as a recent recipient of care spending two weeks in the hospital. There are stressed-out and burnt-out workers and there is not enough money or workers to cope during the restructuring process.

The existing labour relations system, while not perfect, is working. We talk about restructuring. There were five hospitals and five unions representing approximately 4,500 workers in Essex county that, under the existing legislative framework, voluntarily came to an agreement on human resources issues that talked about seniority, talked about bargaining agents and bargaining rights, dealt with issues of union representation — all of the issues ostensibly to be dealt with by this bill. We did it in a timely fashion, we did it without disruption of the services

to the community of Windsor, we did it by respecting the rights of both parties and we did it under the existing legislative framework through negotiation and mediation-arbitration.

While the direction we are hearing from Minister Witmer is encouraging, we will need to see the government's amendments before we can be sure that the government has listened to what the public and labour have been saying.

SEIU is ready. We have held job action votes across the province, with over 90% support. We encourage the government to continue to dialogue with labour and to continue to move in the direction of ensuring the unfettered right to strike and an independent, impartial arbitration system for workers who do not have the right to strike.

A particular point of frustration for health care workers is that the media and the government have really been focused on the issue of the right to strike. As you know, health care workers do not have the right to strike and have not had that right since 1963. I heard an earlier speaker say 1966; I thought it was 1963. But at any rate, it has been 30-plus years. The existing impartial, independent arbitration system came as a result of some hospital strikes in the early 1960s. So an independent arbitration system is as sacred to health care workers as the right to strike is to workers in other sectors of the economy.

Given what we understand the amendments are to include, I would like to take this opportunity to make comments on a few specific areas of the bill: the principles of the unfettered return of the right to strike and the need for a neutral, fair, impartial arbitration system. I would refer you to the code of ethics, page 3; I'm not going to read it. You received the brief earlier from one of our SEIU locals.

Changes to the interest arbitration system must contain a process for appointment and selection of arbitrators that is acceptable to the parties. If it's not acceptable to the parties, it just frankly won't work.

The Bill 136 criteria — the ability to pay, best practices — those issues really strike directly at the impartiality issue. I'm particularly offended by the notion of the best practices with consideration of affordability to taxpayers. It seems to suggest that cheaper is better. It doesn't take into account the quality of services delivered in that situation, and it doesn't take into account the economic impact of throwing potentially thousands of public sector workers out of work or into low-paid, part-time, minimum-wage jobs.

We had an example in Essex county. A number of years ago the Essex county separate school board decided they were going to use contractors to clean their schools because it was less expensive. Over a period of about five years, about half of their schools were cleaned by contract cleaners. That board was having all kinds of difficulty with quality: The schools weren't clean, they had the loss of the importance of the custodian as part of the school family. For a whole number of reasons — not one of which was because the union had such bargaining lever-

age over them; by that point, they had reduced the strength of the union — that employer came to us and wanted to go back to utilizing their own custodians to clean schools so that they would have the control, the quality and a better environment in their schools. They've since done that, and both parties are quite happy having had the experience of trying something that on the surface looked like it was going to be cheaper.

The importance of nominees on boards of arbitration: As opposed to being a hindrance or something that's going to slow down the system, often in a negotiation system, in an arbitration system they help expedite and mediate and get those items off square one and get them to settlements, as opposed to being something that slows the process down by having the sidespersons.

The alternative dispute resolution processes: Although we are quite open to alternatives — mediation arbitration is an example that may work; it's something we have utilized voluntarily in negotiations — we're very concerned that the idea of a final offer selection is something that is not going to work. You had quite a discussion of that with the last speaker, and I'm not going to get into it any further other than to say that on the basis of a system that has to be acceptable to the parties that are using it, none of the parties to these processes has embraced that notion. For that reason alone, I would suggest it's something that's not going to work.

Expedited processes for interest arbitration: Expedited time lines for interest arbitration of course are an admirable goal, but anything that's done in that regard must be realistic and must not stifle the opportunity for the parties to have a full, impartial and fair hearing.

Labour relations restructuring issues: While we are pleased by indications from the minister that the government has abandoned its plans to create a new commission which would duplicate the functions of the existing Ontario Labour Relations Board, we are extremely concerned that the OLRB's credibility as an institution with a long and trusted history of independent and impartial adjudication not be compromised by the imposition of new criteria which will fetter the board's discretion to determine the labour relations issues arising out of restructuring. It is our position that the board has the experience and expertise necessary to deal with the issues which will arise in the restructuring process, with recourse to the existing policies, practices and jurisprudence of the board.

The importation of the LRTC criteria and in particular those criteria set out in section 1 of the purpose clause of the Public Sector Labour Relations Transition Act can only have the effect of undercutting the board's credibility as an impartial and independent adjudicative body. It is our submission that while clearly the board requires some expanded powers to deal with the issues which will be raised by large-scale restructuring, the legislative changes necessary to provide the board with those temporary powers should be restricted to the following areas: reconfiguration of bargaining units where there's intermingling, expedited hearings, determination of bargaining units, determination of bargaining agents, seniority in the new

bargaining unit, composite collective agreements and early or common expiration dates.

In conclusion, we say to the government: Slow down. Everyone, now including the OHA, is saying you are moving too fast and have a schedule that is unrealistic. Everyone is suffering: patients, workers, families. Bill 136 clearly won't speed up the process. We know from our members, with the strong mandate for action and the public support we are getting in our communities, that they will take action if Bill 136 goes through as originally tabled. We need to see the amendments. We need time to reflect on them before we can pull back our members' readiness to take action. As you continue to write the amendments, we need to be assured that the main principles are entrenched: the right to strike is unfettered; an independent, impartial arbitration system.

1350

I said in the presentation that SEIU members across this province have voted over 90% in favour of job action over Bill 136. These workers don't want to fight. The leadership of our union doesn't want to fight with this government or with the employers. We are largely deemed to be essential service workers who cannot strike by law, and our members accept that. What we want is to be treated with the dignity and respect that ought to be afforded workers who provide such essential services as acute health care, long-term health care, support services and education. That is not too much to ask.

When treated with dignity and respect, we have a proven track record of working in cooperation with employers. In the examples I gave you, such as Windsor-Essex, Chatham-Kent, Sarnia-Lambton and London, health care restructuring and human resource issues have been resolved. We have undergone massive health care restructuring in those areas and worked them through, in the whole range of issues contemplated by Bill 136: bargaining units, union representation, seniority, treatment of non-union employees etc. We have done it through negotiations and under the current legislative framework.

Bill 136 is not necessary and will not work. Thank you.

The Vice-Chair: That allows us just about four minutes per caucus, beginning with the third party.

Mr Christopherson: Ken, thanks very much for your presentation. It's good to see you again.

Let me just say first off that if I were going to sign into a hospital for two weeks, I'd sure rather be signing my name Ken Brown than Jim Wilson. There are rumours that they've got cabinet ministers on a health kick because they're afraid to send them into any hospital in this province, but I don't know how much truth there is to that.

I want to pick up on something we started to talk about with Michael, just before you. I think it's important in terms of the message that's going out across the province. Every time the government members like to raise this 11-year issue; they're referring to an example of a situation presented by the Ontario Hospital Association the other day wherein they finally reached an agreement and it's been 11 years. It's CUPE that was involved but the

principles are the same. This ties in also with the expediting process.

Anyone who is watching this or reads the Hansard will clearly see that the government leaves the impression, although they don't say it outright, that somehow it's the unions' fault, that they've clearly dragged their heels or for one reason or another have found it to their advantage to prevent common sense from prevailing and resolving this, that it's the unions' fault.

We have been trying to get across — and it's my experience with the labour movement — that in the vast majority of cases it's the unions that want expedited processes in labour law. They want the system to work fast because it's workers who can't afford to wait to get the justice they're seeking. But unions are only asking in any process, whether it's new or speeding up an existing one, that there's an element of fairness and impartiality and neutrality.

If that issue comes up with them again, I would urge you to hammer that message home, because they continue to leave the impression that it's somehow the unions' fault: "If there weren't that damn union there, we could have got this solved a long time ago." The reality is that it's the union that wants these things resolved because it's their members who need the money, if they're owed money, or who need the justice they've been denied in the workplace and they're going through the labour law to find a resolution to that.

Also, it's interesting that the Ontario Hospital Association did come out yesterday and say they're urging the government to slow down. It's amazing now, through this whole discussion of 136 and other labour law, how many times the labour movement has been proven correct. The labour movement said, from the time Bill 136 was dropped on the floor of the Legislature: "You can't do this. It's unacceptable. It won't work. Communities are not going to back you in putting the boot to us like this." And that's exactly what happened. Then, of course, we saw the great change on the road to Damascus last Thursday when the minister stood up and raised the white flag.

I want to ask you a specific question, though, Ken. Given the fact that right now, so far, the government has not agreed to amend the process to allow you or anyone else in this province an opportunity to comment on the written amendments — the process doesn't allow it. In fact, we can't even amend the amendments when they come to us Monday. It's their way or the doorway. Given the fact that you're not even being given an opportunity to say anything about those amendments, if the amendments as written don't meet the commitment made by the minister verbally, what are the alternatives left to the labour movement?

Mr Brown: Frankly, in that case we're left with very little alternative than to carry on with the action that we talked about with respect to the massive walkouts of public sector workers across this province, if the government proceeds with Bill 136. I can't speak for the rest of the unions, but clearly we are looking at that happening before this legislation becomes law.

Mr Christopherson: Would it not make sense that you would be given an opportunity to avoid that? You are trying to avoid a strike in this province —

The Vice-Chair: Mr Christopherson, time is up. We now move to the government side.

Mr Hudak: Just to shed some light on the debate, even the NDP in the last government recognized the need for changes in labour legislation. They chose a rather draconian method through the social contract legislation. That was their method of dealing with things. They paid the price for that and are now trying to crawl back into favour as best as possible.

One more added point on final offer arbitration: The example was used that the employer, the taxpayer, could make some outrageous demands and then somehow the arbitrator would select those demands. But the other side of the coin is true too: Potentially somebody could further demand and say, "We want 100% increase in wages and we want expanded bargaining units throughout the particular system," and the arbitrator could choose that. The reality, I think, is going to be — and I believe and have faith in the arbitrators — that they are going to pick the most fair and reasonable solution. So if an employer group came forward with some outrageous proposal and the bargaining unit came forward with something that was fair and reasonable, my faith is that the arbitrator will make the right decision and take the fair and reasonable approach.

That's a final comment I wanted to make on final offer, and I pass it to Mr Maves.

Mr Maves: Just picking up on that, we had a bit of a discussion with the Human Resources Professionals Association of Ontario yesterday about that. You said you had good experience voluntarily with mediation-arbitration, and they said that mediation-arbitration would be very helpful because it avoids just being in a court type of process and a hearing type of process and it would be successful.

The HRPAA did talk about final offer selection and that the whole purpose of having final offer selection as a choice of procedure is indeed creating some uncertainty, so that the parties would be more prone to come to an agreement during collective bargaining rather than relying on arbitration. Any comment?

Mr Brown: I can only reiterate what I said earlier, that the process has to be something that the participants have to have faith in. I don't see anybody from either side of this issue embracing the final offer selection as opposed to something that would expedite the process, which is what the government says they want to do. The comments from both sides would suggest that's not going to work, so I guess a better alternative would be totally free collective bargaining. Historically, we have wanted to move the processes along. In a collective bargaining situation, I'll tell you, there's a lot more heat on unions than there is employers when these things don't move.

We had the OHA come to the bargaining table, it will be two years in October, and table proposals on behalf of some 50 hospitals to roll back wages and benefits in the

equivalent of what their budgets had been cut, to take away all the job security provisions and to reduce the number of layoff notices for workers who were being laid off as a result of restructuring. They said, "When you're ready to move on those issues, come and see us," and left. That's where we are in negotiations for contracts that will be two years expired. It's not that the unions don't want to have that settled, but that's what we're faced with in the bargaining situation. That's not something that is being dragged on because the unions don't want to bargain; it's because the employers have made an untenable and unrealistic proposal. Final offer selection is not the answer.

Mr Maves: To me, some of the things you say almost confirm that it would be effective as a deterrent to going to arbitration, because both sides, you're saying, would want to avoid it. So if it's a possibility the arbitrator could choose that method of arbitration, then both sides would really want to avoid arbitration and work together more concertedly to come to a collective agreement.

You talked about Windsor. I just want to ask a couple of questions about that. How was the service of the non-union employees treated in that case? We've had a lot of different comments about this.

1400

Mr Brown: If they were non-union — I'm trying to think. Historically, folks with unions would be organizing, and if they came into a bargaining unit, they came in with service and seniority. If they were non-union management and they were coming into a bargaining unit, they had service for some things such as pension and wage rates but not full seniority for a fixed period of time during the reconfiguration. I don't have the document with me, but following that fixed period of time there was an opportunity for those people — the completion of the reconfiguration, I believe it was — to recapture some of that seniority if they came into bargaining unit positions.

The Vice-Chair: Thank you, Mr Maves. We now move to the official opposition.

Mr Patten: Thank you very much. Good to see you, Ken, and good to see you again, Michelle.

Just to reinforce your point on the context in which we're talking, the Ottawa Citizen says that the Ivey study concluded that budget cuts, hospital closings and the amounts of quick change the hospital sector has absorbed over the past two years have hurt patient care. It found hospitals lack the time, finances and capability to cope with the changes and that restructuring cannot continue at the current pace under the current conditions. I won't read it all, but it goes on to cite the Canadian Imperial Bank of Commerce, which found hospitals' fiscal health has also deteriorated in the midst of restructuring and funding cuts so far totalling more than \$800 million. I'm sure you've probably read the report yourself. We haven't had a chance to read the full reports, but that's pretty serious.

Now, I'm trying to think. Everybody in that situation is suffering from stress. Hospital presidents must be going crazy trying to figure, "Well, we've just gone through cuts for the last several years of 5% or 6%," now the deferral of 7%. Will that be deferred just one more year? Is it gone

forever? Is it part of restructuring costs? They don't know. All of a sudden they're saying: "What the hell can we do? We've got to manage our budgets somehow." So I think they're going to be in a desperation situation.

So something that might be impartial, tilted a little bit to their favour — I'm not against the presidents of the hospitals, of course. I'm just trying to create a context here. But I think that it is tilting the balance, when you add the kind of criteria to the arbitrators, to suggest that all of the criteria that are being added are not in favour of employees. There is, as you know, the ability to pay. Then there's best practices, even though it runs a variety of things. Then of course there's the aspect that arbitrators can now determine the extent of cuts that may be required in order to work out some kind of agreement.

So I don't know if I'd want to be an arbitrator. As a matter of fact, one of the things I'm sitting here thinking after I've heard so many presentations is that I would have liked to have the committee in a position to be able to invite some representatives of the independent arbitrators' association or institute, or whatever their official title is, and ask them to comment and to react to this, because I keep hearing obliquely or indirectly of anecdotal cases where arbitrators are getting uptight about this or worried about this. They think this is going to somehow compromise their professional standing, and they find this distasteful. That kind of representation has not been before this committee. Normally we would have the power to summon someone and request that they come and share their views with us, and we can't in this particular instance, so we share this concern with you.

We had the benefit of Michelle's presentation this morning, which of course covered some of what you have addressed as well. I think she shared our concern, and that is the worry of the additional criteria that will be imposed. They'll take the mechanism and change it, but now the impositions on the arbitrator we're quite worried will really tilt towards being of more assistance to the employer rather than a fair arrangement between two parties.

Mr Brown: I think it clearly tilts it in favour of the employer and I'm sure we'd be interested if you could hear from some arbitrators because we deal with them and hear from them, and informally they express the kind of concerns you're talking about. At least one learned arbitrator said publicly he absolutely will not accept arbitrations that attack the impartiality or have criteria that would affect his ability to act impartially.

Just lastly on your comment about hospital presidents dealing with hospital budgets, I don't have anything much against hospital presidents either, quite frankly. I guess we need them to run the institutions. But how they've managed those hospital budgets is to lay off caregivers at the front line in hospitals. That's how they've dealt with it thus far.

The Vice-Chair: Thank you very much. That concludes our presentation time. On behalf of the committee, I'd like to personally thank you for bringing your perspective forward.

ONTARIO COALITION FOR BETTER CHILD CARE

The Vice-Chair: We would now ask representatives from the Ontario Coalition For Better Child Care to come forward and, if you could, identify yourselves for Hansard. You may begin.

Ms Kerry McCuaig: My name is Kerry McCuaig. I'm the director of the Ontario Coalition for Better Child Care.

Ms Maureen Myers: I'm Maureen Myers, co-director of McMurrich Sprouts Child Care here in Toronto.

Ms McCuaig: We propose to present to you for about 10 minutes. Maureen will add some comments for about another five, and hopefully then we can get into discussions.

The Ontario Coalition For Better Child Care is a province-wide organization of parents, child care workers, child care programs, coalitions, trade unions, and education, health, child welfare, women's, rural, francophone and first nation organizations. Since 1981 we have advocated for a range of high-quality, affordable, licensed child care and early education services to meet the diverse needs of Ontario families. We have worked with successive governments of all parties in their efforts to respond to public pressure for high-quality early education programs.

While the initiatives of each government have varied considerably, the common theme has been to strengthen and expand the fragile network of child care and education services through a variety of measures. Over the years those have included capital grants to new programs, increasing access to child care for parents, improving the wages of child care staff both through direct grants and through pay equity, assisting programs to purchase toys and equipment, and expanding parental leaves. In this effort, various government ministries have been involved, and they have all contributed in a positive, steady progress towards expanding and improving services in Ontario.

However, since June 1995 there has been a significant shift in policy and in action away from a model which improves the quality and availability of child care towards a US model of market-driven child care. What we are finding is that it really doesn't seem to matter which ministry brings forward legislation; we find that it has a disastrous impact on our sector.

There are many difficulties with Bill 136, but we are going to limit our remarks to the amendments to the Pay Equity Act contained in the bill. Our contention is that the amendments are discriminatory and that they violate the equality provisions of the Charter of Rights and Freedoms. In light of the recent decision by Mr Justice O'Leary striking down the restriction of pay equity to women workers covered by proxy pay equity, we are urging the government to withdraw the amendments immediately.

I know that you had a detailed discussion with the Pay Equity Coalition, of which we're also a member, so I'm not going to repeat a lot of what they said, but I would just like to play out for you what those amendments mean in a

sector like child care. As you probably know, most of our sector is not directly affected by the amendments to the act. When the proxy amendment was withdrawn, that meant that over 95% of the women who work in our sector were no longer covered. However, there are still implications for all child care workers, for the parents who use child care and for the parents themselves by the amendments in this act.

1410

When we look particularly at removing the requirement of successors or merged employers to be bound by their predecessors' pay equity plans, which prevented new employers from ignoring the equity plans which had been previously negotiated, this has a particular impact on child care. Child care workers in the municipal sector, which will be directly affected by these amendments, have been used as a standard for wages and working conditions in the broader public sector at large. In fact, these were the workers which were our comparator under proxy pay equity.

It's no secret out there that the municipalities plan to divest themselves of their municipally operated programs. So not only will those workers be denied the protection of their pay equity plans, but it will have a downward spiral effect on wages and working conditions in the sector as a whole.

When we look at the other amendment which required public and private sector employers to comply with the provisions of the act by January 1, 1998 — interestingly, the same date as Bill 136 comes into effect — what we have here is really a reward to bad employers. It's interesting, because child care is one sector of municipal non-managerial workers who are least likely to be represented by trade unions. So it's these workers who are most likely not to have received their pay equity adjustments to date and who will now not receive their pay equity adjustments. I think that this has larger implications for the signal that the government is sending Ontarians at large, which is saying: "If you can avoid complying with laws, go ahead and do so. Just wait it out until the next government comes in, and we'll petition them to rescind it too." It's rather a lawless message which is being proposed here.

Of course, we like to centre in on what we call the Carol Butler amendment in Bill 136. That is the decision to deny private home child care providers the right to access pay equity. Under the act, and right now it is in front of a pay equity tribunal, home child care providers who are employees of municipally operated agencies were deemed to be employees for the purpose of pay equity. It seems particularly mean-spirited for the government to centre out these 2,500 workers in particular, these workers who make on average \$2 an hour, to prevent them from having access to pay equity.

I'm not going to read it, but I would urge you to take the time to read a statement I have attached by Carol Butler, who was the home child care provider who spear-headed this fight, somebody who's been in the field for over two decades, providing care for four children under

the regulations in the Day Nurseries Act. I want to make it clear that Carol and other home child care workers are not objecting to operating under the provisions of the Day Nurseries Act, which provide them with support for the work they do. What they do object to is being told that they are some third class in what is already a second-class occupation and should not have access to the basic protection that other workers have.

In taking these steps, this government is continuing on a road which it has employed since it repealed proxy pay equity, set limits on equity funding and closed the Pay Equity Advocacy and Legal Services. Once again we have a situation where the most vulnerable people in the province are being asked to finance a tax cut which will benefit the most well-off in the province. It's often said by government spokespersons that a tax cut will put money in people's pockets, that it will stimulate the economy and create jobs. We would argue that putting money into women's pockets through pay equity will stimulate the economy and also create jobs. It's a far fairer way of doing it.

I would like to leave you with two points. One is that pay equity is about pay, but it's not just about pay. It's about the value we place on the work that women do. The majority of women entitled to pay equity, particularly in the public service, are in human services jobs. How the work they do is viewed by government and consequently by the public at large has a direct bearing on their desire to enter the field and to stay in the field, and on their performance while they're in the field. So by launching an attack on the women who care for our young, our elderly, our sick and our disabled, we are undermining the care they receive.

Finally, this isn't directly related, but I'd like to leave something for the government to consider. The Ontario Court decision of September 5 to restore proxy pay equity to the over 100,000 workers in the broader public sector has ramifications on Bill 136. It has implications for other areas as well.

It's again no secret that this government plans to eliminate the wage subsidies paid to child care workers. The government members in particular should be aware that the wage subsidy was introduced primarily to address systemic discrimination in a predominately female-dominated field. In fact, the wage enhancement grant was openly provided as a down payment on pay equity. Our legal opinion tells us that if your government follows through on its intention to eliminate the wage grant, it will not only lose in the court of public opinion; it will lose in the courts of our nation, which are bound to uphold the equality rights in the Charter of Rights and Freedoms.

Ms Myers: As a director of a child care centre here in Toronto which has been the recipient of operational grants, capital moneys, we are a centre that has grown in the past 10 years in the community from a licensing of 24 children to 118. We have children from birth to 12 years old. We provide a full spectrum of care to families, to the community we serve. I find it very difficult 10 years later

to be here speaking again about pay equity or pay equity proxy comparators.

When the law first came into effect on January 1, 1988, we were excluded. I looked through my files and I found our first pay equity plan, which basically says nothing. "Here we are posting our plan; there are no adjustments because we don't qualify." This has been a long, hard battle for a lot of staff, parents and community members for us to be included and have a proxy comparator.

The down payment has been through wage enhancement grants, which have had a significant effect on the quality and the service that we're able to provide to the community. If we were to lose this, which looks like the way we're going now, our staff salaries would be reduced by approximately 33%. I don't know any other sector or community or group of people in the workforce who for the past five years have had no increases to salaries, to benefits, no cost-of-living-allowance increases, and then reduce their salaries by 33% puts a big dent in the quality of the service that we have been providing.

We have taken great pride in the work we do. All our staff are qualified, educated, trained child care workers, and since we opened 10 years ago, we have retained every single staff member. We have grown over the years from less than 10 — we started out with two — to 25 full-time staff.

If we lose these wages for these staff, we won't have qualified workers. We will be able to hire anyone over the age of 18 who breathes to look after children. This will have a definite impact on the quality of service, which we will no longer be able to provide. The money can't come from increases to fees to the public. Our infants' parents pay \$1,218 a month for care for children between the ages of six months and 18 months. We can't possibly price ourselves right out of the market. We simply wouldn't be able to provide the service that we provide. I would really like you to take this all into consideration.

As a non-unionized setting, we are part of the broader public sector. We have in the past joined and will in the future join any sort of organized union demonstrations to make our point clear and heard.

The Vice-Chair: Thank you very much for your presentation. That allows us approximately five minutes per caucus, beginning with the government side.

1420

Mr Steve Gilchrist (Scarborough East): Thank you both for coming before us here today. Mr Maves will be dealing with a couple of other points, but I just wanted to follow up on your comments and the insert you put in your presentation about the matter raised by Ms Butler. I must say I was not aware of the specific case. Because, as the brief and you yourself have said, it's before the Pay Equity Hearings Tribunal, it would be inappropriate for me to comment on the specifics of the case, but she raises some generic questions.

I'm genuinely surprised, I guess, at the direction that she and you are taking in this, the underlying premise, it seems, in her own comments: "If I was self-employed, why do I sign their agreement? If I was self-employed,

why do they set the rate of pay? If I was self-employed, why do I have no say in the conditions I work under, such as training and qualifications?" Well, I could fall back on any number of examples in the workforce.

A significant percentage of real estate agents are deemed to be self-employed. They do not set the rate of pay; the broker does. They have no say in the training; that's set by their association. You either are qualified or you're not. You sign the agreement with the brokers. But Revenue Canada considers them to be self-employed. They're individual business persons.

Quite frankly, from my background at Canadian Tire, I appreciate the scale is different, but no one would suggest a Canadian Tire dealer didn't own his or her own business. But the prices are set by Canadian Tire head office, you sign their dealership agreement, and if you do anything wrong or you don't follow the training protocol, you lose your dealership.

The bottom line is, with any number of other comparables, it seems to me that if someone sets up a business in their house — and again I stress that the question is raised here in the context of home day care. Why would that not be considered a home business? Why would you, if anything, not be considered an employer instead of an employee?

Ms McCuaig: Because under the Pay Equity Act as it now stands, a worker who has her working conditions and her wages set by an outside agency is considered to be an employee for the purpose of pay equity. What Ms Butler has done is to take advantage of what the law provided, which is her right to establish that it was the agency which set her wages and working conditions and determined whether or not she will have access to the families who require her care. I think that may be the crux of the difference. A real estate agent is free to go and find who he or she wants to sell a home to. In the situation with the child care agencies, the caregiver is restricted to the pool of families which are made available.

Mr Gilchrist: Excuse me, because her own submission says that when she launched her application, she was down to only one county child, so presumably in her business she'd picked up a number of people from private placements in day care. I'm not aware of anything that would prescribe any home day care operator in my riding that I've ever spoken to from taking people, just neighbours, children, that sort of thing. So like the real estate agent that could go to a different broker if they don't like conditions, or find different clients, why couldn't she go and find other children if she doesn't like what the county's offering her?

Ms McCuaig: Because the county agencies, and this is true across the sector, limit the providers to taking children which are in their eligibility. It's a reasonable thing for them to do. If they're providing the monitoring and all the supports to the providers, why should they provide them to parents who aren't paying for that service?

But I guess the bottom line, Mr Gilchrist, is that the Pay Equity Act is very clear that if a worker is in a situation where in reality the wages and working conditions are

set by somebody outside of herself, then she is eligible for pay equity. That's what the tribunal ruled. That is what is being appealed right now by a number of municipalities. And in the middle of all this process, your government steps in and does the job on behalf of the municipalities and says: "This is no longer the case. You don't have to worry about the appeal process. We'll just take away her right and the right of other home providers to access the provisions in the act."

The Vice-Chair: I'm sorry. That uses the time. We now move to the official opposition.

Mr Patten: Thank you very much. Good to see you again, Kerry. I think we talked last at one of the education bills of the importance of early childhood education, at which you were very articulate.

We had a chance yesterday via teleconferencing to at least see in kind of a slow-moving, moon shot type of picture Carol Butler, who was commenting from Kincardine. So that was interesting.

I'd like to ask you right off the top, either of you, what does pay equity have to do with the amalgamation of hospitals or school boards or municipalities?

Ms McCuaig: Well, if anything, pay equity should be strengthened in a period of restructuring to ensure the equity rights of women are honoured. It is a surprise that this is exactly the time that the government would move to take away those provisions.

Mr Patten: I think the two opposition parties probably share the same view, but I won't speak for them. It's revealing: The two programs they address tell you somewhat the motivation for the whole bill. They have nothing to do with transition per se. The wage protection program doesn't either. These are two programs that affect probably the lowest income grouping, mostly women in probably both of these areas, certainly in the pay equity one obviously. So it's telling. It's a money issue. It has nothing to do with, "Who is affected most, and under what circumstances? What kind of a society do we want to have? How does this affect our wives, spouses, friends, children?" big questions like that that I think are substantial.

So we agree with you. We're concerned about this too. We don't think it should be taken away. My hunch is that they will probably stand it down because it has nothing to do with the bill anyway, because they can slip in something elsewhere, into another bill, as they've done in Bill 136. So you might want to cross your fingers, but given the court ruling, which is the most optimistic thing, although there may be some appeals, for that reason, I suspect the government will probably withdraw that particular section.

I don't have any questions, but I have some time. If you would like to use up some of my time to elaborate on some points, please go ahead. Thank you for coming.

Ms McCuaig: It's been interesting listening to the comments of different spokespersons from municipalities as they thank the government for this particular provision around the home child care workers. Their bottom line is, "Well, we can't afford it, particularly in times of restructuring."

I'm not without sympathy to the difficult position that municipalities in general find themselves in as they're dealing with more and more downloading with fewer and fewer resources to provide for the services that their citizens tell them they want, but I guess we can turn it around and say, "How long can women afford not to have the wages which address their needs?" If there was simply no money — women have provided care forever for no money, if it was simply a question of no money. But when there is money to be found for a tax cut on the provision that this is a good way to put money in people's pockets, I think an equally strong argument can be made that pay equity puts money into people's pockets, and it puts money into the pockets of those workers who are not likely to invest it offshore or to vacation offshore, but those who will really stay and use their wages to build their communities.

Mr Patten: The ones most likely to spend it —

The Vice-Chair: Thank you, Mr Patten. We now move to the third party.

Mr Christopherson: Thank you both very much for your presentation. Fortunately, there have been quite a few people coming in and commenting on this issue.

The employee wage protection program, as Mr Patten has said, has nothing to do with Bill 136 in terms of any kind of municipal restructuring, but it's what we've characterized as a drive-by shooting. While they've got everybody looking over here at what's happening with Bill 136 and all the attention about potential strikes and problems and all that, they'll just take a couple of good swipes at a couple of programs that affect the most vulnerable people in our society and hopefully nobody will even notice. You're not letting them get away with that, and I commend you for that.

1430

You've got to love the verbal voodoo dance of Mr Gilchrist, who begins by saying, "I can't and won't comment on the immediate case that we have in front of us because that would be inappropriate," which of course is a position reserved for ministers. I still am not aware it applies to anybody other than ministers, but hey, I guess we all have to have our fantasies.

But then he moves from, "I can't comment on it," to spending his whole five minutes talking about it. The first thing he does is offer up an example — and of course examples are usually used to go from a specific to a broader point of view, to allow a broader audience to understand and sort of get your point — and then he talks about what's it like, as he is and his family are, to be a franchise owner of a Canadian Tire store.

Mr Gilchrist: Was.

Mr Christopherson: God bless anybody who does that. It's honourable work and I'm not questioning anything wrong with that, but to suggest that somehow all the people who are watching and the people you represent are going to connect with somebody who understands what it's like to be a franchise owner of a Canadian Tire store —

Mr Gilchrist: Or real estate agents.

Mr Christopherson: — gives you some idea of why we have so much trouble with this government, because they don't understand the lives of the people this legislation is going to damage.

Mr Gilchrist: My sister is a day care operator.

Mr Christopherson: I listened to you, Gilchrist. You can listen to me, whether you like it or not.

The Vice-Chair: Order, please.

Mr Christopherson: Secondly, for a government represented by a member who says, "I don't want to comment on this because it's before the courts," their legislation is bringing down the biggest hammer there is to get involved in this.

Lastly, it comes about at a time when the courts have already ruled that their first whack at pay equity under Bill 26 is illegal, unconstitutional, and infringes on the Charter of Rights for women who are affected by this legislation.

There's absolutely no defence on either one of these issues. I can appreciate that on some things that come before these committees there are differences of opinion, different philosophies, and one goes one way and we go another and we battle it out. That's the way our democracy works. But these issues are so clear and so mean-spirited and hurt people to such a degree that is unbelievable, people who can't afford to be hurt, that it always drives me to anger every time I get involved in these kinds of discussions, because they don't have any legitimate arguments. There's no defence for what they're doing, absolutely none.

Just so we set the context here, what's the average wage for child care workers?

Ms McCuaig: It's \$24,000 for a trained child care worker.

Mr Christopherson: Trained, experienced: \$24,000. What's the average education?

Ms McCuaig: The minimum to work in the field is a two-year ECE diploma. Most child care staff have more.

Mr Christopherson: An ECE diploma is?

Ms McCuaig: It is a two-year diploma from a recognized community college in early childhood education.

Mr Christopherson: So we're talking about people who have to be really committed to this issue to put that much time in. Of course, doctors and lawyers make the case, and it's a good one, that they put in so many years learning and going to school and they can't be earning, but at the end of the day there is a good payout for those professions, which is why so many people want their kids to be one. But the fact is, if your goal is to go to post-secondary school for two years so you can earn \$24,000 a year, you've got to be committed to what you're doing, because you ain't getting rich.

The last thing I want to raise with you is, are you going to give up the struggle now that you've been beaten back a bit?

Ms McCuaig: We have been beaten back a bit, but I'd just like to register — I think this government had real plans for child care. I think they thought, because it was a small sector, it was something they could dispose of in their plans quite quickly. I think they have been shocked

by the amount of resistance from this sector and its willingness to fight on its own behalf, on behalf of the workers in it, and the parents on behalf of their children. So I see no sign.

Ms Myers: There are no signs of backing down, as I had said too. This is 10 years later, and here we are sitting talking about the same issues.

Mr Christopherson: I raised the question because I wanted it on the record and I want him to hear that you're not going to back away. I'll tell you, all the allies and friends and people who recognize there's a serious social justice issue here affecting women are going to be with you every step of the way. We'll get back everything that's been lost by this vicious Tory agenda and then we'll get back on a path of making things better, the way they ought to be.

The Vice-Chair: That concludes your time. On behalf of the committee members, I want to thank you personally for bringing your presentation forward.

Ms Myers: Thank you very much.

ONTARIO CHAMBER OF COMMERCE

The Vice-Chair: We would now ask the representative or representatives from the Ontario Chamber of Commerce to come forward, please. If you could identify yourself and your organization for Hansard, that would be appreciated.

Mr Wallace Kenny: My name is Wallace Kenny and I am the chair of the Ontario Chamber of Commerce. I thank you for the opportunity to speak to you today on Bill 136. If you look at the title of our paper, you will note that it might appear that we're speaking on Bill 137, but seeing as how I don't know what Bill 137 is, I think I'll contain my comments to Bill 136.

The Ontario Chamber of Commerce is a business organization representing over 65,000 employers in the province of Ontario. Our members include large and small enterprises in all sectors of the economy. We believe the diversity of our membership gives us a unique perspective on the business interests related to the implementation of Bill 136.

Bill 136 is a bill which concerns the public at large and certainly concerns the business community. We are critically interested in ensuring that the government services that are provided are provided and implemented in a cost-effective and efficient manner. Disruption to municipal services, education and hospital services can have a significant impact on the economic wellbeing of the province and obviously the ability of our membership to conduct business effectively.

While we are generally supportive of the government's initiatives to streamline government services and provide a more cost-effective and efficient service to the public by eliminating unnecessary duplication, we are very concerned that the government ensure it provides the necessary support to these institutions to ensure the transition is accomplished with a minimum of disruption.

The integration of hospitals, municipalities and education boards will present a major challenge to those institutions. Each amalgamated organization will be faced with a myriad of collective agreements with different bargaining agents and different terms and conditions of employment. A sensible and pragmatic method of integrating the existing terms and conditions of employment is essential.

The private sector has had some significant experience in restructuring organizations. In our experience, when unions are asked to determine who should retain the bargaining rights of an amalgamated bargaining unit, the internal union wranglings and political issues often overwhelm the interests of the individual employees and the interests of the employer. We therefore view it as critical that the resolution of these bargaining unit issues be dealt with in a comprehensive manner in Bill 136. The current provisions appear to outline a pragmatic approach which is sensitive to the interests of the various unions, the employers and the employees, and I include in that both the non-union and unionized employees who will be affected by the amalgamation.

We understand the government has indicated an intention to transfer the determination of these issues to the Ontario Labour Relations Board. Provided that the actual provisions which dictate how these matters will be resolved continue to be in the bill, we see no reason why the jurisdiction cannot be transferred to the labour board.

However, the board's current discretion in dealing with business amalgamations provides the board with a wide degree of discretion. As a result, the integration of employers' and unions' bargaining rights requires protracted hearings and complicated, expensive decision-making processes. The current provisions of Bill 136 have the potential of simplifying this process greatly and allowing for an expeditious transition of bargaining rights, and a fair one for all parties concerned. We strongly urge the government to maintain the existing bargaining unit transition provisions in Bill 136 even if they are to transfer the decision-making power over those provisions to the labour board.

The other fundamental challenge in ensuring a sensible transition of employment issues on these amalgamations is to ensure an adequate dispute resolution mechanism exists to resolve and integrate the terms and conditions of employment, which vary from bargaining unit to bargaining unit in these amalgamated entities in a very significant way.

As is evidenced by the public sector unions' general reaction to the proposed amalgamation of these entities, unions will naturally resist any changes which have the potential of reducing existing terms and conditions of employment. We shouldn't be surprised at that; that's the business they are in. This means that during negotiations for the resultant collective agreement of the amalgamated enterprise, the unions will attempt to ensure that the best terms and conditions of employment that exist in any of the bargaining units will prevail in the amalgamated entity.

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This interest has a serious potential of increasing the costs of employment in the amalgamated entity over those costs which prevailed in the prior institutions. Obviously, this is likely to be resisted by the amalgamated entity and could therefore create the potential of significant work disruption in those areas of the public service that have the right to strike. I think this disruption is evidenced by the willingness of the unions to encourage illegal strike activity in the firefighters' sector or the hospital arena, where strikes have long been prohibited by law. We are therefore very concerned with the government's expressed intention to allow those municipal workers and education workers who presently enjoy the right to strike to retain that right in this transition phase. However, the union's expressed intention to deal with this right in a responsible manner will be demonstrated by their conduct throughout this ongoing process.

We think it is critical that other dispute resolution mechanisms be available should the conduct of either of the parties to any set of negotiations be contrary to the overriding public interest we all have in ensuring a smooth transition.

To the extent that the government intends to amend the legislation to use the first-contract interest arbitration provisions of the Labour Relations Act, some other criteria for accessing those provisions ought to be introduced. There is presently very limited opportunity to access the first-contract provisions of the Labour Relations Act. In addition, other dispute resolution mechanisms, such as final offer selection, should be considered.

One of the things that was quite interesting about the way in which Bill 136 was drafted is that it provided a myriad of potential dispute resolution mechanisms and, by offering those various options, it encouraged the parties to make every effort to negotiate the terms and conditions of the amalgamated collective agreement themselves. Obviously, any collective agreement that is negotiated between the parties will be a better expression of their mutual intent than one imposed on them by a third party. However, some option to the strike or lockout weapons should be maintained in order to ensure that the interests of the public are not sacrificed to the interests of the individual parties. It is for that reason that we think the government should be very cautious with respect to simply eliminating the option of other dispute resolution mechanisms.

I would be happy to answer any questions.

The Vice-Chair: That allows us about six and a half minutes per caucus, and we begin with the official opposition.

Mr Patten: Thank you very much for your presentation. I have a few questions that I would like to ask you. I must say that your presentation is a little more balanced than some of the other chambers I've heard come before committee hearings, and not confined to this committee hearing, in that you seem to be seeking out an approach that really will be and acknowledge that this has got to be something that is fair to everybody. You inserted that word in one of your sentences here. I would like to rein-

force that particular point, and naturally from your sector's point of view: what's good for business development, what's good for helping to create jobs and all this kind of thing.

I met someone recently who has just moved to Toronto, and I think this will underline your point that if we have social chaos, it's not going to be attracting people from one place to another. This individual was saying: "Listen, I don't think I'm going to buy a home at this stage" — they're talking about having moved to Toronto — "because I don't know what the heck I'm going to be paying in my property taxes. If they're \$3,500 now, I may buy a house and all of a sudden they're \$7,000. I want to wait and see, so maybe I should cool it and rent."

"Where should I live? Which schools are going to be amalgamated, which boards," etc?

This is just to underline your point, which is that when we have a time of instability, we want to get through that as rapidly as possible, hopefully in a manner that is going to be a win-win for everyone.

When you said, on your second page, "A sensible and pragmatic method of integrating the existing terms and conditions of employment is essential," do you think this bill is a sensible, pragmatic method of integrating the existing terms and conditions?

Mr Kenny: We actually thought the existing bill was an eminently sensible way to deal with the transition provisions, because what it did was it took a very temporary period and said: "Fine. We're going to go through this. Let's have an independent third party be a resolution dispute mechanism and avoid the process."

Frankly, what happens on the amalgamation of most businesses is that where you have complicated issues, you don't tend to deal with the peripheral issues. You tend to deal with the basic, fundamental way to integrate the enterprise. So any first contract, so to speak, which would be dealt with in any of these enterprises would most likely focus on those limited issues, and they could be resolved in an expeditious way.

We frankly thought the reaction to the bill by the union movement was somewhat inflammatory, given what we thought was a rather modest adjustment to get through this transition phase, much more modest than some that we've seen other governments impose in the sector.

So yes, we did. However, the government having been responsive to that, and I hope not naively, it's why there still must be some kind of opportunity, should the parties act irresponsibly, to access some other kind of dispute resolution mechanism.

Mr Patten: When you make these comments, are you confining yourself to the original bill? Are you including any of the comments the minister has made subsequent to that?

Mr Kenny: No. I'm saying that we thought the original bill was quite rational. The changes that the minister will make hopefully are not overly responsive and hence overly disruptive to the transition process. We haven't seen the actual wording and whether or not there is still going to be some access to a dispute resolution mecha-

nism. If the parties act irresponsibly, we think it's very important that there be an alternative.

Mr Patten: There is some difference of opinion from different quarters.

Mr Kenny: I'm sure that's the case.

Mr Patten: The minister did say last Tuesday that there would be more choice, certainly for the arbitrators, in the fire, police and hospital labour dispute acts. These acts would change in order to allow the arbitrators to broaden their use of mediation, mediation arbitration, and final offer selection during the arbitration process if it got to that particular stage.

Mr Kenny: I expect that's in the sector which doesn't have the right to strike. The interest arbitration process is in place already in many of these institutions that are being amalgamated.

Mr Patten: That's right, plus other criteria on the other side.

You had mentioned here that the current provisions — by the way, you started off by saying "Bill 137." I just wanted to make a comment —

Mr Kenny: Yes. What is Bill 137?

Mr Patten: Bill 137, I would like to suggest, should be the bill that includes the amendments that the minister alluded to but we have not seen. It's been somewhat of a handicap for the witnesses before us to comment on such substantial issues that the minister has identified without seeing the actual text. So that's what I would like to think. That would be wise. It's so essential that they should really withdraw this bill, redraft it and introduce Bill 137.

Mr Kenny: We don't have time for that.

Mr Patten: It could be done, believe me, in a week or less.

Mr Kenny: Quite seriously, this process has been delayed much too long already in order to ensure a smooth transition.

The Vice-Chair: We now move to the third party.

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Mr Christopherson: Thank you for your presentation. Let me pick up on your last point, that there's not enough time and we have to rush things through because we can't afford the possibility of all that disruption. I can appreciate the point of view, but the facts paint a different picture. The reality is that no one has yet been able to show an example where there's been a strike as a direct result of an amalgamation anywhere, not just provincially but nationally.

Mr Kenny: I think they are being threatened illegally all over the province right now, aren't they?

Mr Christopherson: No, no, I'm talking about the specifics of an amalgamation that takes place. The unions have put forward for quite some time now and have said categorically, so if there was contrary evidence, the government has had time to research it out, that there have been no strikes, not just in Ontario but in Canada, that are the direct result of an amalgamation. So the evidence says —

Mr Kenny: Mr Christopherson, that suggests the unions shouldn't be making the threats that they are making

now. In other words, they are idle threats, and if that's the case, that's good. I applaud that if that's the case, but it certainly doesn't appear, from what we're reading in the press, that that's a likely scenario to come out of this event. That's what we're concerned about.

Mr Christopherson: Let's be clear, sir. We're talking about two distinct things: One is the political actions taking place around the question of whether or not 136 should become the law, and the other is what happens when you are going through an amalgamation, community by community or institution by institution.

All I'm saying is that the fact is, and no one has refuted it yet — never mind what's going on in the politics of 136, but straight-up amalgamations — there is no evidence of any strike directly relating to an amalgamation.

Mr Kenny: That's good.

Mr Christopherson: That's excellent, but it also suggests it might be a little bit over the top to suggest that we can't afford to even wait to hold hearings on the amendments to 136 because we've got this potential crisis waiting for us out there. The evidence is that we don't.

Mr Kenny: Mr Christopherson, our concern is that the municipalities that are being amalgamated and the unions enter into discussions at a very early stage to ensure this transition takes place smoothly. At the moment, what the parties seem to be doing is arguing about the passage of this bill as opposed to speaking to one another, and we think it would be more prudent for everybody if they started speaking to one another.

Mr Christopherson: In terms of speaking, it sure would have been a hell of a lot more prudent if the government had been speaking to the unions before they dropped 136 on the floor of this place, because we could have avoided all of this.

Mr Kenny: I can't speak to that.

Mr Christopherson: I can.

It's interesting, and I would ask if there's any particular reason why — it's not paginated, so I would just point out and read that you talk about the union's right to strike, that they enjoy the right to strike and retain it.

Mr Kenny: It is actually paginated at the top.

Mr Christopherson: Forgive me; you're right. There it is under "Commerce."

Page 4, third paragraph, the last sentence: "However, the union's expressed intention to deal with this right in a responsible manner will be demonstrated by their conduct throughout this ongoing process." Fair enough. But why only the emphasis on the union? What about the emphasis on the employer to be responsible also? Employers are as much a cause of strikes as unions are.

Mr Kenny: That's why I indicated that I think it's important that there be an alternate dispute resolution mechanism if either party is acting in an irresponsible manner through this transition phase. The reason I referred to the unions in that paragraph is that they are the ones who at the present time seem to be suggesting that they're likely to take that kind of action.

Mr Christopherson: Again, though, we're talking about the political action around 136 versus what happens

under the reality in our society if 136 is the law. They are two very distinct processes.

Mr Kenny: As a member of the public, I'm having some trouble distinguishing those two things in practice.

Mr Christopherson: That's why it's nice to have public hearings where we can lower the temperature and look at these things in a calm, rational fashion.

One of the things you mentioned too about 136, aside from calling it modest, is that you call it "pragmatic" in that it is "sensitive to the interests of the various unions, the employers and the employees."

One of the real difficulties the labour movement has is that if you've got a situation where you can't resolve an important matter through negotiation, you send it off to a third party, an arbitrator. Under 136, that third party is no longer seen to be neutral or unbiased. Currently the system works because the list of arbitrators is developed by a consensus method where employer and employee reps say: "These are people we trust and respect. We're prepared to put our case in front of them, like a judge, and we'll live by their decision." It's that credibility that gives them their moral as well as legal authority.

Under 136, that process was scrapped and those arbitrators are handpicked by the government of the day. Regardless of which party, the fact is that they are hand-picked by the cabinet. You lose that impartiality, and without that, you can't have an arbitration system that will work.

Mr Kenny: I think it's important that there be impartiality in the arbitration process. I think, though, that you misinterpret the existing legislation in the area. I happen to work in the area rather extensively, and frankly, if the parties can't agree on an arbitrator right now, it's the Ministry of Labour that appoints them. So the process under Bill 136 is not radically different, but I admit it's different.

Mr Christopherson: But the one is a fail-safe mechanism and the other one is the first stop.

Mr Kenny: No, actually. The parties are still able under Bill 136 to agree on arbitrators themselves. It's only if they cannot agree, in the same way that is the case now, that the commission would appoint.

Mr Christopherson: But the commissions are the ones that are being appointed by the government.

Mr Kenny: Yes. I just explained that that's no different than it would be now.

However, if I could just say one more thing, the reason I think there's an alteration in Bill 136 is because of the frustration that employers have had in these sectors with their experience with arbitrators. You have so many provisions in these collective agreements that are not normal in the private sector, not because they've been negotiated freely but because they've been imposed. So I think it's that frustration which has led to this response by the government.

The Vice-Chair: We will have to move to the government caucus now.

Mr Christopherson: Fair enough, but given an imperfect system, what do you do when people don't have the right to strike? What other mechanism —

The Vice-Chair: Order, please, Mr Christopherson. We will move to the government members now.

Mr Maves: Thank you for your presentation. There have been all kinds of examples, I must say, though, during these hearings that have been brought forward of amalgamations that have occurred and actually are still occurring that have taken two, four, five, 11 years and they still haven't solved some of the issues in these amalgamations. I think that's something we would really want to try to avoid. I think you'd agree with that.

In other areas of the country where they've done amalgamations, governments have brought in legislation which just deemed outcomes. I think we've tried to avoid that. Perhaps part of the reason we've tried to avoid it is because the previous government brought in legislation which deemed outcomes, and we wanted to try to have a process that would allow collective bargaining to continue to take place. We didn't want to put labour through that deeming of outcomes again. You could go to arbitration under the social contract, but the award had to be within the confines of the social contract. It was a deemed outcome. We tried to avoid that for the express reason of not having disruptions, to try to allow collective bargaining to continue.

Labour has said, "Don't touch successor rights. Don't go into our contracts, open them up and take out contracting-out provisions," for instance. We didn't do that because we didn't want to have a disruption which, as you said, is bad for the economy.

We then went into a consultation period with regard to the bill and there were three major requests the government asked for: to replace the LRTC with the OLRB, and we've done that; to get rid of the Dispute Resolution Commission and move to a first-contract arbitration process, and we've done that; and to return the existing right-to-strike provisions, and we've done that. It's all an attempt to avoid large disruptions, because we agree with you. The economy is clicking along as well as it has been since the late 1980s, I think. We don't want to lose that. We want to have a smooth transition. So we've taken a lot of steps along those lines to make that happen.

It's disappointing to see that while we're not going as far as deeming outcomes, some of the non-right-to-strike unions are now saying they're still going to walk out. Even after all of these concessions have been made, they are still making plans public to walk out. Have you got any comment on that? It wasn't really done to this extent in the early 1990s under the social contract, but it seems to be done here even though we've made as many concessions as we have.

Mr Kenny: I think I've already expressed our point of view that we think you have attempted to be sensitive to the various interests. I think realistically what you're seeing here, and Mr Christopherson really alluded to it, is that this isn't a protest about Bill 136; it's just generally a

protest by public sector workers and unions with respect to the political direction of this particular government.

This happens to be the current legislation in place, and though I can't speak for the unions, I think some of them would be sorely disappointed to lose some of the provisions of Bill 136, particularly with respect to the transition provisions relating to bargaining unit amalgamation.

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Mr Maves: You have said in your paper — I want to get to something very specific because today we've had some discussions on this — that it's a good idea, actually, to have other dispute resolution mechanisms such as final-offer selection. I wonder if you can expand on that a bit, because it's the government's position that introducing a little bit of insecurity around the type of procedure that might be used by an arbitrator will force the parties to say, "Gee, I don't want to have that — for instance final-offer arbitration — as my method of choice of procedure, therefore I'm going to bargain a little harder at this table and try to avoid going to arbitration." That's our position. I wonder what your experience is with that.

Mr Kenny: I'd say that's exactly what happens in the labour relations community. That's what strike and lock-out is. It's something both parties wish to avoid at all cost in a normal circumstance. It encourages settlements.

Similarly, the most ironic thing about the noise in this bill is that it's the unions that are concerned about interest arbitration when mostly in the public sector it's the employers who are horrified of having to go to interest arbitration. They are afraid that what will be imposed is something they can't live with. That encourages the parties to sit down and try to resolve their differences themselves. The options with respect to dispute resolution mechanisms encourage parties to settle their differences, because otherwise the settlement is taken out of their hands.

Mr Maves: You also talked about a test. If we have first-contract arbitration — there's a difficult test right now to get to first-contract arbitration — and now, if municipalities have first-contract arbitration, it could take some time to get to that test. I'm wondering if the labour movement had something a little easier —

Mr Kenny: You need to have a public interest test.

Mr Maves: — to get to first-contract arbitration before. Do we need that now?

Mr Kenny: You need some kind of public interest test to be included within the parameters as to when the labour board ought to impose interest arbitration. It is not just these parties that are at issue here. The public is at issue, whether it is students, whether it is patients or whether it's the general public that uses municipal services. This is not an issue simply between the parties to this collective agreement. You have to ensure that the public's interests are protected in this transition period.

The Vice-Chair: Thank you, Mr Maves. That concludes our time. On behalf of the members of the committee here, we thank you for taking the time to bring your presentation forward.

Mr Christopherson: Just briefly, on a point of privilege, Mr Chair: I'm sure that Mr Kenny, being an honourable man, would not want to leave the record incorrect to the extent that I was not alluding to political action on the broader Tory agenda. I was saying there is political action but it is specifically directed at Bill 136.

ONTARIO TAXPAYERS FEDERATION

The Vice-Chair: The next presenter, the Ontario Taxpayers Federation, if you could come forward and identify yourself for Hansard. You may begin.

Mr Brian Kelcey: Thank you very much, Mr Chair and members of the committee. My name is Brian Kelcey. I'm the new director of the Ontario Taxpayers Federation, also known as the Ontario division of the Canadian Taxpayers Federation. I want to start by apologizing to the members of the committee. I only received the invitation to speak before this committee yesterday, so my apology goes to the members and to the clerks of Hansard for not having a written presentation for you today.

With that start I want to say, however, that obviously there has been considerable public discussion about this particular bill, and well before having spent the time to read through the published draft of the legislation, there are some things that come to mind, not just about the actual text of the legislation *per se* but some important comments the CTF as a taxpayers' organization can throw your way in relation to the politics, if you like, surrounding this bill and in relation to a couple of specific issues in terms of the process of getting passage of this bill completed.

The first thing that deserves mention is our comments as an organization on the government's decision-making on this so far. I thought it was important to put us on the record as being somewhat baffled by the position taken by a couple of so-called pro-business groups that are arguing that the government has unduly caved in to union demands and that the government is being weak-kneed in terms of its commitment to try and deal with public sector union concerns related to provisions on the right to strike in the early draft of the bill.

I can say that clearly many of our members in their hearts probably were itching for a big fight with the public sector union movement. In their minds it's definitely, I would imagine, their view, from what I've heard so far, that the government made a wise decision in looking instead at this as part of a process towards achieving goals that are necessary for taxpayers rather than indulging in some kind of a one-week to six-month battle with its own employees, which would have done nothing but clarify a single procedural question in the ongoing amalgamation process.

This government has some good things on its agenda and it has some bad things on its agenda. We happen to think that more than most governments in this country, some of the good things are very good things, and we'd prefer that the government would focus its attention on getting the good things done. We are happy, in other

words, that the decision taken by the government to step back and try to resolve this issue in a way which focuses on successful amalgamations is a positive step and that this was the alternative chosen.

That leads nicely to my second point, which seems to have been discussed in passing with the earlier presenter, and that is the issue of disruption to the economy. I'd like to stress as well, making a comment more to the government side, that the uncertainty that's being caused here is not simply uncertainty that's giving the public sector labour movement an excuse to step forward and say, "We don't know what this bill is really going to look like." It's not simply a situation that's providing for easy exploitation by those in the public sector movement who are itching for a fight. It's also providing uncertainty for candidates in municipal debates, for staffs who for better or for worse are trying to work on contingency plans for the transition to various amalgamated collective bargaining processes. It's causing uncertainty in the business community and among ordinary taxpayers who are our members, who are a little baffled as to what Ontario is going to look like in a few months' time, because with every passing day, whether or not the government has made commitments to step back, the rhetoric seems to be getting louder and louder.

My caution to the government as well, although I suspect it can't do much good at this point, is that if you're working doubly hard on trying to get some iron-clad amendments to this legislation now — and my understanding as of this morning is that those drafts have not yet been released — as a taxpayers' organization I don't feel any qualms about representing its opinion in saying: "Spend the money on overtime. Work very hard. Get those details out." At least then we'll be having a substantive debate over what the government's intentions are, rather than playing this game of shadow-boxing which not only, I think, benefits those who see this as an opportunity for crisis but also puts everybody in a position — whether or not they are members of these collective bargaining units or living in municipalities that are under serious concerns with their amalgamation — of being left under the threat of chaos, however real that may be.

To deal with the substance of the legislation, I only had the opportunity, in part because of my own scheduling, to go through this in detail this afternoon. I was particularly interested in part because this would be the part of this legislation that survives fairly intact, from what I understand: the transition process.

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Frankly, to be blunt, if you're going to go through an amalgamation process, for collective bargaining this seems about as fair as it can get. I walked in on the end of the previous presenter's comments and the questioning back and forth with one of the members in here and I have to say that yes, looking at the legislation, something that hasn't become clear in the public debate so far is how much room is in there for the collective bargaining units and the employers to resolve their differences before they get to the point which has caused so much controversy,

namely disagreement over which collective bargaining agreement should be selected for composite units and so forth.

The problem is going to be when you reach a position, if there's a composite agreement in place, where the transition commission is going to be looking through and picking and choosing from among these collective bargaining agreements. Again, a collective agreement, if you're selecting one that has been used already in one of the merged or amalgamated bargaining situations, you've set up the very situation where at least the agreement that's being picked has been bargained by some of the members of that bargaining unit in a fair situation with their employer.

Nevertheless, let's say you've got, for the sake of argument, four different collective agreements, A, B, C and D. If A is selected, you're going to have a municipality that's very upset, assuming A is the most costly of those collective agreements, and you're going to have a very happy collective bargaining unit because they're all going to get the benefits that once only accrued to a smaller portion of that particular unit. In the decision-making process, the transition commission is supposed to look at a number of factors. Specifically in section 34, paragraphs 1 through 5, I believe it is, there's a discussion of considerations: employer's ability to pay, lost services and so forth. My recommendation to the government at this point, again to help clear up uncertainty, for lack of any other better reason, is to take the time, whether it be in the legislation or outside of it, to go into more detail about what is meant, for instance, in section 38 by the most appropriate collective agreement and to go into greater detail, if possible, even whip out a position paper over the next few days, again for clarity of what the government's intent is in the meaning, for instance, of sections like 34(5)1.

Obviously the taxpayers federation strongly believes that ability to pay has to be of paramount concern in that decision-making process. Nevertheless we have sympathy even with our opponents in that to have a debate over the questions of ability to pay. Particularly in an ongoing municipal campaign season it helps to know what the government's intent is in terms of the transition commission as to defining that very question.

In summary, we have here what appears to be a fair solution to a difficult problem that the government is working to enhance, we believe, by ensuring that disputes over questions of process don't overcome disputes over questions of substance. As many of you know, the CTF and the Ontario Taxpayers Federation were virulently opposed to the amalgamation process for municipalities on the grounds that we've seen lots of evidence to suggest that such processes usually end up with higher taxes, overly powerful bargaining units and large bureaucracies. Nevertheless, it's also our obligation to try and be constructive as well while the amalgamation process is going on. I would liken it to walking into a political minefield in the sense that if somebody walks into a minefield, you might scratch your head wondering why they walked into

a clearly marked minefield, but at the same time you're also going to try and help them get out.

There are a few different ways to get out. You can walk backwards and go out the way you came. Clearly the government is not going to do that and isn't considering that option any more. The next best way, which is the way we're recommending, is to walk straight out in the other direction. The objective here is that if you walked into the minefield, you did it to get to the other side. Dealing with questions like the right to strike and leaving those in Bill 136 in some ways created a situation where the government was, instead, trying to walk out of the minefield by walking in ever-expanding circles, which is obviously not the wisest way to proceed.

If provisions are changed in this bill to ensure that both sides in the collective bargaining process have some room to disagree, and to disagree hotly, if necessary, and to do so in a way that the employees as well as the employers think is fair, I think you'll end up with a smoother amalgamation process. While that's not often necessarily a position that groups that ours would be too happy with, in our hearts we think that some movement is needed on a number of collective agreements throughout the province to ensure that municipalities are more affordable. The fact is that the process of getting there will be easier once this amalgamation process is solved, and solved smoothly.

The Vice-Chair: Thank you very much for your presentation. That allows us just under six minutes for caucus. We begin with the third party.

Mr Christopherson: Thank you, Mr Kelcey. I'm going to start out by saying I think we can all sympathize with the shortness of time. The majority of presenters have been faced with that. Unfortunately the process just hasn't lent itself to people being given the time to review adequately what's in front of us. It's impossible anyway, given that we don't even have what's in front of us actually in front of us.

You talked about a lot of the noise that's out there and what is happening out in the public domain. I want to ask you your opinion. I realize that while I don't agree with much of what you said, there were parts of it that addressed accurately what any side in this dispute would agree is the reality. How do you feel about the fact that some of us believe that if the government is now sincere when they say they were listening and that's why they've changed their mind, as opposed to the fact that for the first time they picked a fight they couldn't win, what they would have done at the beginning was sit down with the labour leaders before June 3, when they tabled the legislation, and say, "Look, this is where we're thinking of going"?

I've been a cabinet minister, I've introduced legislation, and that's exactly what I've done, not that I'm any hero; the commonsense thing to do is to pull in the leadership of the people who are affected by laws and say: "This is what we're thinking of here, the broad-brush policy ideas. What are your thoughts on that? What's your reaction?" Do you not think if the government had done that, given where we are today, vis-à-vis the government's

180-degree turn — I won't say "flip-flop" — that we might have avoided an awful lot of this and we might have had the time we needed to review it constructively, and if we've got agreement, get it in place and get on with the job?

Mr Kelcey: In response to the member's question, I'd say potentially we try not to make a habit of pretending that we're necessarily in ministers' minds or in MPPs' minds and so forth. The best answer to that question that I think I can give you at this point is that I expect so. I'm prepared very begrudgingly to give everybody some leeway in this process precisely because one of the warnings we gave on this issue was that amalgamations, particularly of municipalities, contain a lot more room for forgotten issues or for things that need to be cleaned up or for logistical chaos than we believe the government expected when it embarked on this policy. That being said, I think in part their actions today demonstrate their sincerity in trying to make this work. I realize there are time constraints and I would lean to the side, as I'm saying, of giving the government the benefit of the doubt, that the speed of work required to make this process an efficient one is resulting in a little bit of uncertainty. The faster that uncertainty is eliminated, the faster we can get on to substantive debates over what precisely is in these collective agreements and what the different bargainiers believe.

Mr Christopherson: That's where we'll disagree, because I don't believe they have been sincere. I think they have caved because they did not expect the reaction from AMO: an anti-Bill 136 position. They didn't expect communities like mine in Hamilton, where the city council voted against it as well as the labour council, and that has happened in a number of communities, including in Thunder Bay just the other night. I think, as I said earlier, they just picked themselves a fight that for once they realized they can't win because the meanness of what they're doing is so clear to enough people. But we can agree to disagree on that.

You mentioned that you were urging the government members to have people work overtime and do everything they could to get the material out so there could be a "substantive debate." Those were your words.

Mr Kelcey: To clarify that, there is certainly enough here to have a substantive debate, but obviously the greatest source of concern that is stalling this process right now is the substance that hasn't been clarified. That's the part I'm concerned about.

1520

Mr Christopherson: That's exactly where I'm going in my own roundabout way. Do you not agree that rather than having hearings on this and giving you such short notice — you probably don't feel really good about coming in here without a prepared text, you probably like to do things in as professional a fashion as possible. But also you're talking about provisions that have either been pulled because 136 doesn't apply or provisions we haven't seen in writing, so the idea of having a detailed debate is rather moot. My bottom line is, wouldn't it make sense to you if you had the amendments in front of you right now

so you would know exactly what you were commenting on and had at least a few days to think about it and write down some thoughts?

Mr Kelcey: To respond to the member, I actually enjoy speaking without notes, so this gave me a good excuse, but at the same time I think —

Mr Christopherson: Then why did you apologize?

Mr Kelcey: I'm apologizing to the Hansard clerks in particular because it makes their lives more difficult.

Mr Christopherson: They're pros. They do this all the time. Pat can do it with both hands sometimes. Watch her.

Mr Kelcey: That's good to know, but as far as the text of the amendments is concerned, obviously I could have more interesting things to say if there were more data to work with. That's my point, and I'll agree with you on that, that this debate right now is incomplete until those amendments are provided.

Mr Christopherson: Yes, but you just agreed with the Ontario Federation of Labour.

The Vice-Chair: We now move to the government side.

Mr Gilchrist: Thank you, Mr Kelcey, for your presentation. I appreciate your coming before us.

I'd just like to pick up on a couple of things. Mr Christopherson plays the game very well in here of waiting until the turn of rotation so there's no chance for rebuttal, so you'll forgive me for starting off by making the comment that as much as I'm sure it's less embarrassing to him to believe that the world started on June 8, 1995, the fact is that his party is hardly a paragon of virtue when it comes to consulting with the unions and listening to the people who work in the public sector across this province. In fact, the former MPP, who is now the adviser to their leader, said, "The input we want to see in here is at the bargaining table, not in an all-out effort to defeat this legislation in the legislative committee."

That's why Brian Charlton said it was quite appropriate to have no public hearings on the social contract, which stripped every public sector employee of all their rights for arbitration and to be dealt with fairly, not to mention a wage rollback. I know Mr Christopherson doesn't like to talk about that subject, because it goes far beyond anything that is dealt with in this bill.

We could speculate, looking into the future, that arbitrators may or may not deal fairly in the future. I have no reason to believe arbitrators will be more or less fair in the future, but the bottom line is that the changes we've proposed simply add more incentives for people to bargain fairly.

I also want to comment very briefly that he keeps throwing in that somehow you need to see the specific words of an amendment that says, "The following section is hereby deleted." Mr Christopherson knows the process. He also knows that the Liberals and the NDP normally, you would believe, if they are being responsive to the people they supposedly represent in their ridings — unless the suggestion is that 100% of the people in his riding agree with the NDP position, and I don't think he could square that with the voting results in the last election —

there would be amendments they would be bringing forward. It would be equally valid to ask, since they have had this bill since June 3, and they have a research budget for 16 people, almost the same size as the 82-person caucus of the Conservative government, why they wouldn't have their amendments out, why they wouldn't have done their briefs and why they wouldn't be prepared to have their amendments scrutinized by you. The bottom line is that they don't want you to see that. They don't want you to be able to comment on, in most cases, the fairly frivolous things that they will bring forward if past bills are any indication.

Let me ask you this: Whether it's three or four significant amendments or 100 minor or medium amendments, would you not agree that any time an amendment to the bill comes forward, it has the potential to change it, and in theory you could suggest you would start the whole process all over again?

Mr Kelcey: In theory you could have processes going on forever.

Mr Gilchrist: Precisely.

Mr Kelcey: If I can just say something, sir, the gist of my comments here is that the way things are going, we will have processes going on forever. It was meant as constructive advice to the government that while it's not my place to be a political adviser, it certainly is the mood of the membership that I have spoken to so far that the faster resolution of this issue through faster release of substantive data would help generate confidence and prevent the kind of economic disruption that the member who is walking behind me was speaking about.

Mr Gilchrist: That's precisely why we believe a relatively short time period, making sure this bill is passed long before the restructuring of these municipalities takes place on January 1, is necessary. We can't continue to belabour the points.

If anyone thinks the union position would have been any different if they had come to the table in July instead of September after they got through their Labour Day parades, they are out of sync with reality. The bottom line is that they are never going to agree to a number of the changes that are in this bill, but they identified the five key issues. What is really quite insulting is that they came to the minister and said, "These are the things that we find most odious," and while the member opposite would suggest we don't listen, we sat down and dealt with all the stakeholders, the employers and the employees, in this case the labour unions, and we made all five of the deletions they requested. What was their response on the day we did that? They came out to the scrum afterwards and said: "We didn't guarantee labour peace" — even though they did on CFRB on August 18 — "if you made these concessions. Here is a whole new series of demands." That's their idea of bargaining in good faith.

The bottom line is, if their position is that there has never been a history of labour strikes during restructurings, imagine the irony if now that we have sat down, listened, made the changes and taken out the odious sections, they said, "Because you have listened, now we're

going to stage an illegal strike just to make our point." In fact, they went even further. I don't know if you heard the testimony of Sid Ryan saying two days ago, "It's now not even about this bill; it's about the teachers' bill," which doesn't affect one single employee of his union. I wonder if you would like to comment about the appropriateness of that and the sort of social dislocation that would cause.

Mr Kelcey: Part of the point of this discussion is that rather than fretting about anticipating strikes every time they are threatened, we should get on with the business that Ontarians are looking to get on with and get that business done. That business, I hope, for most or all MPPs, is trying to have a government that is affordable, that provides services where government is the appropriate provider of them and doesn't where government isn't the appropriate provider of them. With that in mind, part of my suggestion is that yes, there are lots of threats going on out there. I think those threats will end as the debate becomes more solid and after the amalgamation process begins. Some of our members are upset, but if there are some strikes breaking out, I think that is an issue to be dealt with then based on the substance of what the strikes are over. In some ways it's a waste of time to debate it otherwise, and I mean that with all due credit to the member.

Mr Gilchrist: Thank you, Mr Kelcey, and we share your optimism.

The Vice-Chair: We now move to the official opposition.

Mr Patten: I have to make a comment on this because it is the government's bill; it's not our bill, it's not the NDP's bill. The government puts in a bill, and by the minister's own admission has addressed the fundamental issues that were of major concern, which was most of the bill.

In a circumstance of that nature, if you are sincere about hearings, you would then say, "We could draft them, because in an hour, at 5 o'clock, if we're sincere about listening to you and to all the other witnesses we have heard, and by 4:30 we will have listened to 42 — right now it's 39 with yourself — 32 of 39 have commented on shortage of time and, 'We feel somewhat at a disadvantage in that we don't know quite what we're dealing with.'" The hearings are to look at the bill. That's the purpose of them. Mr Gilchrist, in his evangelical fervour, tries to suggest that we have the same kind of power. We don't.

Mr Gilchrist: You have the same rights.

1530

Mr Patten: We do not. We don't have the same power at all. They have five members over there and there are three of us here on this side. Regardless of the quality of the argument or the issue, they can just ignore it and vote it down. For us to react, of course we're working on amendments. We've even stated them. We will say "delete." We do not believe that it's wise to delete the pay equity for women who are in the lowest-income area. We don't see taking away the wage protection act. So we have

ideas which we have expressed in the course of the hearings and Mr Christopherson knows that.

I'd like to ask you, though, about some of the worries of the taxpayers association. You referenced that some of them were worried about amalgamations. Frankly, many are too, because we don't believe bigger is best. You're absolutely correct that all the evidence suggests — maybe not all the evidence but certainly most of the evidence — that when you get bigger, you get your political leaders and you get your staff working for those units, more removed from people, and eventually they start adding to the bureaucracy because they have to: They can't travel all the way from Etobicoke or Oakville to Scarborough in one afternoon, they can only make one trip, and if they're going to make it, they may as well stay home, all those kinds of issues that go with big units. I appreciate that comment. That's coming on the heels of what this is. So while there is cynicism, some of that is not unwarranted, given that they've had to deal with this particular government.

I wanted to ask you quickly, what are your views related to the proposal of having welfare and social housing and 50% of the education tax still on property tax?

Mr Kelcey: I think there are other fora to go into that issue in more detail, but because you've asked the question today, I'll make the point that in general, one of our biggest problems with the government's agenda right now is the whole process they've been working through related to municipal issues, including amalgamation, including reassessment and including downloading. Particularly, I can say without question on the issue of social welfare and social services costs, I can't think of an easier way to guarantee increasing social welfare costs than putting social welfare costs on the property tax bill. You're dealing with something that fluctuates so wildly in different municipalities and different areas.

One of the reasons for our concern is that you're then setting up a situation where you're going to find people who are just trying to pay for their homes and pay taxes for services that are there watching their taxes rise in a way which is totally out of proportion to their ability to pay for social services which may rise totally out of proportion to a municipality's ability to pay. So we would be seriously concerned about that issue, as we have been in the past.

The more I look at the amalgamation situation the more I'm frustrated, because we're being forced at this point to say that the downloading agreements are of concern, the amalgamations are of serious concern, but we've also got an obligation to try and help these people make these systems work whether or not we think they're actually going to. That expresses, I hope, the paradox we've found ourselves caught in at this point.

Mr Patten: I can appreciate that.

On your point of some of these things being an incentive to bargain, with Bill 136, some of the evidence we've had before the committee, and privately as a member, is that some municipalities have withdrawn from negotiating at the moment, especially when the first draft of the bill

commented on by the minister was introduced. They wanted to wait until 136 was introduced because it would appear they felt it would be to their advantage to do so.

If those who think at least the first draft as it is would be an incentive for two parties to get together, the representations I've heard so far have been that by virtue of that testimony, it has shown that the employers anyway would see that to their advantage and therefore would want to wait rather than continue with existing negotiations, let alone have some of the existing negotiations reopened or restarted with some new criteria that may be part of what's recommended, although we don't know what it is.

Mr Kelcey: Excuse me, Mr Chair, may I ask a question?

The Vice-Chair: A quick response.

Mr Kelcey: I'm just curious. You're saying that part of your concern is that the timing of Bill 136 has created a situation where employers are seeking to gain an advantage by sitting on their hands and waiting for that advantage to appear?

Mr Patten: Yes. I've been told, as a matter of fact, in a couple of cases that police forces and firefighters were in negotiations with their municipalities and the negotiations have come to a halt. The word is that the municipality wants to wait until Bill 136 is through. I don't know if they feel that way today. This was prior to the backtracking of the minister in terms of readdressing some of the essential points of the bill, but at that particular time, I'm responding to your comments that Bill 136 would have this effect of encouraging the two parties to resolve their differences prior to going to arbitration or going to the labour board or better.

The Vice-Chair: Actually, that pretty much concludes the time. If you want to have a quick wrapup, you can.

Mr Kelcey: Just a sentence to say that the process that has been set up and structured is as fair a process as I can think of, given the circumstances for bargaining and resolution. If there is going to be any push to go to the table and negotiate, I think the momentum of the amalgamation process rather than any legalese in Bill 136 will be the primary force that creates that kind of incentive.

The Vice-Chair: Thank you very much for your presentation. On behalf of the members here, I want to thank you for bringing your perspective forward.

For the members who are here, the 4 o'clock presenters are assembling in the hall and are willing to come in, so I think we'll take a small five-minute recess and reconvene at 15:45.

The committee recessed from 1537 to 1545.

The Chair: Colleagues, we reconvene for continued deputations on Bill 136, the Public Sector Transition Stability Act.

CANADIAN RED CROSS SOCIETY, ONTARIO DIVISION

The Chair: We're now about to listen to presenters from the Canadian Red Cross Society, homemakers

division. Welcome to the committee. Would you introduce yourselves for the Hansard record.

Mr Allen Prowse: Allen Prowse, the general manager of field operations in Ontario zone.

Mrs Gabrielle Moule: Gabrielle Moule, volunteer president for the Canadian Red Cross in Ontario.

Ms Deborah Clark: Deborah Clark, director of community health services.

The Chair: Please begin.

Mrs Moule: Thank you very much, Madam Chair. Ladies and gentlemen, we are here today in the hope that together we can resolve a situation that threatens the continued operation of the Red Cross homemaker service in Ontario. Since pay equity was first introduced, successive changes to the legislation have resulted in different rules being applied to the different providers of the homemaker service throughout the province. This has resulted, as you can imagine, in what we are characterizing as an uneven playing field within the home care sector. The regulations that currently govern the Red Cross homemaker service with regard to pay equity will become so onerous January 1, 1998, that we will have no choice but to close down this vital service unless changes are made.

Red Cross has been operating a homemaker service in Ontario for 70 years. We currently employ 6,400 people, most of whom, by the way, are women. Many are single parents. This service is the central piece in our larger community health service that we operate, which includes transportation, friendly visiting, Meals On Wheels, yard work and many other such programs that provide assistance and support to those who are homebound, particularly to the elderly and the disabled. Given the current move towards earlier hospital release and the increased emphasis on caring for persons in their own homes, you can see that this Red Cross service clearly fits the model for long-term care reform in Ontario.

The service also offers another benefit; that is, an opportunity for the homemakers' clients to deal with an already known organization, one that has many other services to offer that they may in fact require.

Our concern naturally focuses on our employees, but there is another very significant group of people that will be adversely affected if we have to close down this operation. That is the more than 70,000 clients that our homemakers serve. We currently operate homemakers in 90 communities across Ontario. Of these 90, 29 are communities in which Red Cross is the sole provider, and they're also mainly rural communities. We are the sole provider, as I say, of homemakers in those 29 communities.

This issue may appear to be a pay equity one to some people; however, we believe that it is more properly an issue of having the same set of rules apply equally to all homemaker providers across the province. We do not want to undo the major gains in pay equity that have already been achieved. At this point I would like to turn things over to our director of community health services, Deborah Clark, to give you more specific details.

Ms Clark: Since the mid-1920s, the Canadian Red Cross homemaker service has provided practical, in-home

support to those in need. The first homemaker service originated at the Toronto central branch to provide home-making support to young families following the First World War. Today, our homemaker service is found in over 90 Ontario communities. In 29, we are the sole provider of homemaking services, the majority of which are in the northern region.

As seen in our submission, appendix A, our services are available to frail and vulnerable groups, including seniors, new mothers, people convalescing, caregivers, persons with physical and mental disabilities, children and palliative care clients. We employ over 6,000 homemakers and 400 office and professional staff who deliver close to six million hours of care to over 73,000 clients. Ninety per cent of our clients are referred through the home care, now known as the community care access centres, through a fee-for-service purchase agreement.

Homemakers play an increasingly important role in helping vulnerable people remain at home and to improve their capacity to function independently in their own communities.

The essential services provided by a homemaker through either daily or weekly visits may include the following, and I reference appendix B. Personal care activities may include bathing, dressing, toileting, feeding, assisting with medication, palliative care, assisting with either exercises or mobility or specific lifts or transfers that the client may need. Of course, there's also some basic home management tasks that involve the homemaker and these may include grocery shopping, meal preparation, general housekeeping, laundry or errands.

Many of our homemakers have completed community college training to provide in-home care for clients of all age groups on a short- or long-term basis. Homemaking services have seen a growing trend in the past few years with special function requests to carry out tasks that were previously performed by other professionals. With the introduction of the Regulated Health Professions Act, homemakers, with appropriate training and supervision, have undertaken such tasks as are referred to in appendix C, such as bowel and bladder care, colostomy care, suctioning, G-tube feeding, medication assistance and operating the specialized lifts or transfers.

The Red Cross homemaker service has participated in a variety of programs and service initiatives to meet the needs of clients and their communities. These initiatives are especially critical in times of hospital restructuring and early discharging of patients back into the community. In the submission, in appendix D, you'll find a listing of our activities. We are involved in attendant services, Alzheimer day and respite programs, early obstetrical discharge programs, shared care and cluster care, supportive housing, palliative care projects and household support, to name but a few. Homemaking services are offered through flexible scheduling to coincide with the client's diverse needs and are available on a 24-hours-a-day, seven-days-a-week basis.

As health care restructuring continues, in-home providers such as homemakers support client choice to receive

care in the home and the government's shift from institutional to community-based care.

I'll now turn the presentation over to Allen Prowse, our general manager for field operations.

Mr Prowse: Homemaker services in Ontario are subject to the action that is involved in the long-term care reform and as such will move to a limited competition model which is being initiated this year.

In order to lessen the impact on traditional service providers, for instance, government has established a minimum hourly wage for homemakers at \$9.15. This is expected to disappear in 1999, but it's important to point out that not only does Red Cross's current pay-equity-adjusted rate exceed that \$9.15, in fact Red Cross homemaker wages and benefits are the highest in 31 or 35 home care areas in the province of Ontario.

With subsection 13(7) of the act requiring full achievement of pay equity by Red Cross by January 1, 1998, because it is a job-to-job comparison and not a proxy comparison and no likelihood of further government subsidization, this balloon payment will prevent Red Cross from continuing to offer these services.

The problem, in brief, is our service providers and other service providers employ primarily female workers. Though there were few, if any, appropriate comparators available for use in our pay equity plans, we adapted the job-to-job comparison method. As a result, where most home care service providers were not required to make adjustments under the act as originally enacted, we obligated ourselves to substantial adjustments to homemaker hourly wage rates, thus ensuring that our homemakers would get the benefit of the spirit of the act. When the act was amended to include proportional value and proxy comparisons, these were not available to us as a result of our existing pay equity plans.

Following the election of the current government, proxy comparison obligations were eliminated from the act and adjustments pursuant to that section of the act were capped at 3% of 1993 wages. As a result, most of our existing competitors were able to meet their pay equity obligations by a one-time adjustment in 1995, which results in rates substantially less than the pay-equity-adjusted hourly rates required of Red Cross. As noted above, this problem is further compounded by the act's current requirements that Red Cross achieve full pay equity no later than January 1, 1998. There's a requirement to dramatically increase what amounts to the best wages in the industry to a point that would prevent us from continuing.

If government's policy objectives are met in terms of fostering competition and no action is taken before January 1 to provide some relief from these inequities, we will have no choice but to cease operation. As the sole provider of homemaker services in 29 rural Ontario communities, 22 of which are in northern Ontario, our principal concern is the 72,000-plus people we serve and our current employees. If the Canadian Red Cross were forced to abandon this program, a significant dislocation in service would result. This cannot have been the intention of the

legislation, its amendments or the current government's policies.

We therefore request the amendment of section 4 of Bill 136 as follows and the repeal of subsection 13(7) of the act to require full implementation of pay equity as per section 13(6) in the private sector, and we've clearly laid out the wording.

To further complex matters, on September 5, 1997, Mr. Justice O'Leary of the Ontario Court of Justice (General Division) declared schedule J of the Savings and Restructuring Act, 1996, repealing proxy provisions to be unconstitutional and of no force and effect. Although no determination has been made as yet as to whether the ruling will be appealed, a ruling by the Ontario Court of Appeal will be a long time coming and it will not help us.

We therefore propose as an alternative that the proxy comparison method be made available to all employers in the broader public sector, including those with existing pay equity plans resulting from either job-to-job or proportional value methods. An amendment similar to that proposed for subsection 4(3) of Bill 136 could then be added to allow employers using the proxy method to replace their own plans and implement the required adjustments, notwithstanding the amounts of adjustments required under the original plan.

The Pay Equity Commissioner, Jean Reid, who conducted a review of the legislation, specifically recommended that government resolve the Red Cross problem. We've reproduced her comments in brief in the report.

Public service staff of both the Ministry of Labour and the Ministry of Health at all levels have been very supportive and responsive to proposals put forward by the Canadian Red Cross Society, but we believe they've done all they can. We're looking for a level playing field for all homemaker providers which does not eliminate the major achievements in pay equity built into present rates. Government support in making this an urgent issue now is essential to avert an unnecessary loss of employment and service to the vulnerable.

Our desire is to support the purpose and spirit of the act, ensure fair compensation for women and to continue to provide essential, in-home services to the elderly and the vulnerable.

1600

In summary, the issue as it affects Red Cross is simply that the patchwork of approaches to determine pay equity liabilities threatens to undermine a large component of the community care sector at a time when it is being counted on as a key component of health services restructuring. At the moment, Red Cross provides approximately 40% of all homemaker services in the province of Ontario. Of this, we provide 80% of all the services that are available in rural communities and 100% in 29 communities, 22 of which are in northern Ontario.

We request your consideration of our suggested amendments.

If it is the will of government that Bill 136 be passed as drafted with respect to pay equity, it would provide the opportunity for an orderly transition of these services to

another provider, without the current obligations. We are committed to achieving this because our principal interests are the clients we serve and our employees. If it is necessary for us to achieve an orderly transition, we can be relied on to do this in a competent and a professional manner. It can be expected to result in some upset and confusion for both our clients and our workers. In the end, it seems to us unnecessary to put the many affected individuals and communities through this, simply to have the pay equity legislation apply equitably to all providers.

If Bill 136 contains no amendments to the Pay Equity Act, then the only alternative is business closure. It would be for Red Cross a sad end to 70 years of providing homemaker services in Ontario. We are not opposed to pay equity legislation. We are simply asking to be placed on the same footing as other providers in the industry.

Again, I'd like to reiterate that the public service at all levels has been supportive and understanding in the search for a fair and appropriate solution, but in the end this is a legislative problem and it requires a legislative solution. We appreciate the opportunity to present our case and our proposals and are pleased to answer any questions which you may have.

The Chair: Thank you very much. We have six minutes remaining for questioning from each caucus, and we'll begin with the government caucus.

Mr Hudak: I'll start off, Chair, and I'll be very quick. Could you help us out with some of the details? What's the current obligation that the Red Cross is under with pay equity adjustments? What are you looking at?

Mr Prowse: This would be an adjustment of approximately \$5.95 per hour, or a 60% wage adjustment due and payable January 1, 1998.

Mr Hudak: Which would put your cost of delivering the service — how would that compare to your competitors?

Mr Prowse: It would put us somewhere between \$6.75 and \$7 away from our nearest competitor.

Mr Hudak: And the result of that would be?

Mr Prowse: We'd be out of business.

Mr Hudak: You'd be out of business.

Mr Prowse: Yes.

Mr Hudak: And what does that mean for a lot of rural and northern communities in Ontario?

Mr Prowse: It means a lot of people, over 70,000 individuals, will not have these services that would allow them to continue to live in their homes, and we'd have 6,400 people out of work.

Mr Hudak: It seems, obviously, that with pay equity, although a laudable and admirable goal, you always have to be very cautious in how you go about it. The market tends to be pretty efficient in terms of determining wage rates. In the public sector, in how to determine the proper wage rates, you always have to be very cautious. This is a good lesson in unintended consequences.

You've brought forward a couple of amendments for our consideration that will ensure that the Red Cross home care services, or those people who are benefiting from them, will continue to benefit from home care services into

the future. I thank you for that, and I'll take them into serious consideration.

Mr Gilchrist: I'll be relatively brief. I know Mr Maves wants to ask questions as well. Image the irony in all of this. Pay equity, but the previous government, when they set up the plan, made it so complicated that there was no equity within each industry. I find it quite extraordinary that they thought it was okay to have 92% of the home care workers dealt with one way, and you dealt with another way.

It's unfortunate that none of the northern members — and I would remind everyone that every seat north of Parry Sound is held by either a Liberal or an NDP member — are here today to hear your presentation, because you deliver, it's my recollection, 100% of the home care in the north. From what I hear, if the option facing you is closure, that's going to be an extraordinary dislocation to the people who need those services in the north.

Let me ask you quite precisely, what exactly would the impact be of that \$5.95 increase? Who pays that? Is it government that will turn around and have to raise everyone's taxes to pay it, or have a lot of your clients contracted privately for home care services?

Mr Prowse: No, the majority of services are provided on purchase of service contracts to government. We would find ourselves in the situation that we would simply have to close this service and we would end up with a net unfunded liability of between \$10 million and \$20 million. We'd be broke, and \$10 million to \$20 million in the hole.

Mr Gilchrist: That's extraordinary.

Mr Maves: The requested solution to this is probably going to become a matter of debate, even among members of our own caucus, because the private home day care amendment that's contained in Bill 136 is there because it clarifies that people who provide day care in their own homes under contract to municipalities or other agencies are not covered by the Pay Equity Act. These people are independent contractors, and it was never the intent of the legislation that they be covered. This was also the position of the previous NDP Minister of Community and Social Services. I know you'll know that.

The rationale for that is that they're under contract. There's a whole rationale for that. The people you have working for you aren't quite the same as the people who have private home day care, so I wonder if you've given any thought to any other way that this can be approached besides an amendment like this.

Mr Prowse: We have given some thought, although there wasn't really sufficient time to work through the technical details. This is the challenge, having spent the last 18 months working with many public servants in both the labour ministry and the Ministry of Health. The challenge is to find a technical solution, because it is a challenge. In this case, the suggestion was that essentially to take this approach would provide an exemption opportunity which would essentially leave the players largely where they were.

It's not the best one. A better alternative is the one we didn't really have the time to work through to the point of

language, which is to create a situation where the proxy approach would apply and would allow us to use the same rules, the same tests. The same criteria that were applied to all other providers of homemaker services would be applied to Red Cross. It's not a question or a request or a desire to be off the hook; it's a question of being treated exactly the same way as everyone else.

Mr Patten: You said you didn't have enough time to work this out. Is that because there was short notice to come here?

Mr Prowse: Yes. Although we've tried many, many things in terms of different approaches and explored numerous approaches, this is certainly a more recent one for us, so we really didn't have the time to work on the language.

Mr Patten: Just in a nutshell, you're saying your wages were around, what, \$10 or something?

Mr Prowse: They are over \$10. The average might be about \$10.40.

Mr Patten: That would jump to \$16 or \$17?

Mr Prowse: Yes, at least.

Mr Patten: How was that determination made?

Mr Prowse: It was an internal comparison because the organization was large enough to have some male comparators. I don't know the logic behind the choice made, and frankly, it would be our responsibility whether we made a good or bad choice. However, it doesn't affect the outcome. The challenge is that this is the situation.

Mr Patten: You're kind of stuck with it. If you're already 31st or right up there — out of 35, you're at 31st place.

Mr Prowse: We have the first place in 31 out of 35 areas.

Mr Patten: Oh, I see. Okay. Having gone through an internal review either in anticipation or in the spirit of pay equity, you arrived at a certain solution. I'm trying to grasp if there was some other body that adjudicated this and said, "We compare you with this group," by proxy or whatever. Then I think we'd have something to work with. But what would you want government to do, go into your organization and do a review? The ultimate solution, of course, would be to give you more money to carry your services.

1610

Mr Prowse: Well, it would be an awful lot of money.

Mr Patten: I appreciate your position, because that's what I wrote down before you were asked the question by the member on the other side, and that is that it places you now in a far less competitive position if you're dealing with, what, primarily regional government or local government councils, town councils?

Mr Prowse: Community care action centres.

Mr Patten: They're looking at what's the least costly service, and sometimes they may even sacrifice quality for cost.

Mr Prowse: The irony in this situation for us is, on the basis of those contracts that have been tendered to date, we've actually done very well in the competitive environment, even though we have the highest wage and benefits

costs. On the basis of best price and best quality, we've frankly been winning contracts in this environment. But with an additional burden that no one else in the industry requires, simply because they had no male employees in their whole organization at the time, we're finished.

Mr Patten: Now I understood — I forget what the figure was, but supposedly over \$100 million was committed to at least the long-term care area, which is part of some of your services, right?

Mr Prowse: Yes.

Mr Patten: A good part? What percentage would be related to, say, seniors or shut-ins or retired people?

Mr Prowse: Our homemaker program in Ontario, which would largely be for seniors, is in total about \$108 million now.

Ms Clark: Over 70% of our clientele are seniors.

Mr Patten: Well, you probably know better than I do. I know what it is in my area, in the Ottawa area. It was over \$100 million, was it not, that Mr Wilson said he was committing to enhancing long-term care and home care and all this kind of thing? Have you seen any reflection of that? Does that trickle down to you, in other words?

Mr Prowse: Yes, it does. It particularly trickles down in terms of enhanced transportation programs which we and others provide to provide transportation to medical appointments etc for elderly people, largely in our case with volunteer drivers; additional Meals on Wheels programs or the reverse, referred to either as Meals to Wheels or congregate dining programs, particularly in Metro, Mississauga and other municipal communities; also things like friendly visiting etc. These things in fact are trickling down. There have been some significant changes.

Mr Patten: I suspect that the government will withdraw this, given the court case you cited; however, they may not. Anyway, that's my judgement; it may not be so. If that happens, that obviously doesn't change anything for you. This act won't address it, and frankly I think the opposition is in agreement that this has nothing to do with the amalgamations directly and neither does the wage protection program. So there might have to be another avenue to address them. I agree that if you're going to implement a qualitative factor on the basis of social justice, than it should prevail in the complete sector.

I appreciate your position. I'm not sure what the answer is, given the circumstances of the time allocation motion we're under, because we can make an amendment but we're not sure what we're dealing with here because we don't have the government legislation before us. So we're in a bit of quandary, frankly, ourselves, but I do appreciate your situation and want to be supportive of your position.

Mr Christopherson: Thank you very much for your presentation. I want to say at the outset that the Hamilton Centre Red Cross is just literally around the corner from my constituency office, and I've always been very supportive of those folks. They went through some very difficult times, but the individuals at that particular centre are well respected and regarded all across our community.

Betty Ho and all her staff deserve our continuing support, and they will continue to get it.

Also it's interesting that Mr Gilchrist seems to believe that if he shoots from some lower level, suddenly that's a better shot. Regarding the fact that there aren't any northern NDP members here on this committee, since I'm the only member allowed, because they reduced the size of the committees, I would just say to him, where's the minister of northern affairs and where's the Premier? They're the northernmost members they've got. I wouldn't expect them to be here, so there you go. They could be here listening if they really cared too. It's a cheap shot. I don't mind when it's intelligent bantering back and forth, but when it's just cheap stuff, I'm surprised.

Also, the government likes to say that one of the big problems with pay equity is that it's so complicated, therefore it's evil, because they don't like anything that doesn't fit on a bumper sticker. I would just say that heart transplant operations are complicated too, but nobody is suggesting we get rid of those. The fact that it's complicated merely points to the number of problems that pay equity has to deal with. So let's be clear on what we're dealing with.

Also, I want to ask a question. The pay-equity-adjusted amount reflected in your report, \$9.15 an hour, is that total pay or is that just the pay equity adjustment?

Ms Clark: That's not actually a pay equity adjustment, Mr Christopherson; that is part of the long-term-care transition to the managed competition model. So any provider that wants to submit a request for proposal for homemaking must have \$9.15 for a homemaker wage, and then there would be a benefit on top of that.

Mr Christopherson: Right, but at \$9.15, a quick calculation, we're talking about people right now who at that level are earning less than \$18,000 a year for a 40-hour workweek, right?

Ms Clark: Our beginning wage is higher than that \$9.15.

Mr Christopherson: Yes. I just want to be clear what we're talking about when you say \$9.15 is sort of a minimum amount anybody is going to get. We're talking about people in our province, women predominantly, who are making less than \$18,000 a year, at that rate. That's accurate?

Ms Clark: It would probably be in that range, yes.

Mr Christopherson: Okay, thanks. Let's see if I can cut to this quickly, and I honestly don't know the answer to this. I'm not an expert in this field and I don't pretend to be, which is dangerous. Politicians are like lawyers: We don't like to ask questions we don't already know the answer to. If the government didn't appeal the court ruling, and if they flowed the money the court said they should flow, they didn't order them to but they said they had a moral obligation to flow it, would that alleviate all of this problem? That then would leave the proxy still in place and would still have the money flow, correct?

Mr Prowse: Sure, but you'd have mass behind-the-scenes subsidization of the various rates, which I suspect would eliminate any concept of competition.

Mr Christopherson: But my point is that the court said that the government's attack on pay equity under Bill 26 is unconstitutional and of no force and effect and it violated the rights of the women who received those pay equity benefits under the Charter of Rights. That's what the court said. The government is thinking about appealing that. I'm just asking the question, with the problem you brought to us today, if the government would stand down and say, "We're not going to appeal," and flow the money that the court said they had a moral obligation to flow, would that alleviate your problem?

Mr Prowse: No. Our liability was created under the job-to-job method and therefore was not subject to the ruling of the court, since proxy is not the method used to determine our obligation.

Mr Christopherson: So you're not receiving any money on job-to-job?

Mr Prowse: We have up till now, but with the introduction of the competitive model we've been assured that that's not expected to continue.

Mr Christopherson: Now, that's part of the government's move, the competitive model that you mentioned?

Mr Prowse: Yes.

Mr Christopherson: That's an initiative of this government?

Ms Clark: Yes, it is.

Mr Christopherson: So the whole idea of further privatizing a lot of these services is complicating this also?

Mr Prowse: Well, in our case it really doesn't. I guess one of the reasons for our challenge is that there's no opportunity to privatize here. We're out there alone because, as nearly as we can tell, nobody else wants to be there.

Mr Christopherson: Let's go back. Where did the problem start for you? You were okay before Bill 26?

Mr Prowse: No.

Mr Christopherson: You didn't have a problem, or you still had a problem?

1620

Mr Prowse: No. We had a problem right from the beginning, because when the original legislation came into effect, since there were male employees in the national organization, then there was an opportunity for a job-to-job comparison — no one else in this industry was subject to those rules, because they had no male employees — so we found ourselves alone then and alone now, and we have to address it.

Mr Christopherson: The problem is further exacerbated or there is nothing new? Something has to have changed with Bill 26 and the court ruling.

Mr Prowse: With Bill 26, with the limitation of other people's obligations, yes —

Mr Christopherson: Your rates are left that much higher?

Mr Prowse: — it's way out there, with an achievement date of January 1, 1998. I can assure you I would have been here earlier, but I have only been here 18 months.

Mr Christopherson: If you were allowed some kind of adjustment for a recognition that proxy is now allowed by the courts, does that — there has got to be an answer. For those of us who believe in the concept of pay equity, there has got to be a way of saying this can be solved somehow, rather than going after the income of women who are earning \$18,000 a year and supporting families. Surely to God there are enough brains to figure out a way to do this.

Mr Prowse: I concur. This is the alternate suggestion, and we did not have an opportunity to try to sort out what the language might look like, and that is that essentially the proxy method would apply to us, would determine our obligation, just as it has everyone else's in the industry, and beyond that, we would be committed to our obligations and we would take our lumps.

Mr Christopherson: That would require following the court ruling, then, that the proxy stands prior to Bill 26. You would have to do something else to it, but step one would be to recognize the proxy as a constitutional right that women have to have in the law and then look at how to amend it so there isn't the discrepancy between the two.

Mr Prowse: From our perspective, treat us like everyone else, and whatever is the outcome of that decision, we're prepared to live with that, because that's fair.

Mr Christopherson: So you're not seeking to go for the lowest dollar being paid to these women workers; it's a question of you just making sure everyone is fair. I would assume your preference, being the kind of humanitarian agency you are, would be that they receive as livable a wage as possible?

Mr Prowse: Nobody compelled us to be the top payer in the industry; that was our decision.

The Chair: On that note, thank you very much for coming before the committee this afternoon. It's very much appreciated.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 771

The Chair: I'd like to now call upon representatives of CUPE Local 771, please. Good afternoon. Welcome to the committee. If I could just remind you to introduce yourselves for the Hansard record.

Ms Christina Duckworth-Pilkington: I'm Christina Duckworth-Pilkington, and I am the president of CUPE Local 771. I have with me Rob Rolfe; he is the acting vice-president of Local 771. I thank you for the opportunity to present our concerns today. These are the views of my union local and of the central advisory committee of the CUPE municipal workers in Metro Toronto. This is a group of unions which jointly represents some 20,000 municipal public service workers.

I want it to be clear that we fully support the position and goal of the Ontario Federation of Labour that this bill should be withdrawn. Bill 136 curtails our basic freedoms and is utterly repugnant to us. It attacks working people in the name of solving a problem that doesn't actually exist.

Further, the process to ram it through has been hasty, ill-considered and undemocratic.

The Minister of Labour's statement of September 18, removing restrictions on the right to strike, retaining free collective bargaining for first contracts and maintaining the responsibilities of the Ontario Labour Relations Board seems to be a step in the right direction. However, no amendments have been made available, and we need to see the proposals in writing, with time for due consideration.

The process for dealing with this bill is undemocratic. We have seen this bill be given stringent time limits, with only four days of hearings. The hearings were not held properly, with province-wide sittings. Notice was very short. I was granted time to speak yesterday, on almost exactly 24 hours' notice. I believe I was phoned at quarter to 5. We know amendments are proposed, but the hearings will be over before the details are revealed. Then the bill will be rammed through in two days, before the public and the other political parties have time to absorb the changes. The employers and the Association of Municipalities of Ontario were consulted, but not the unions.

The unions and employers are going into the biggest merger in the history of Metro Toronto and the other municipalities across Ontario are facing the same problem, yet we don't know the rules we will be working under; we just know they will be different. Perhaps this is why AMO has not supported Bill 136. This is no way to run a city, and it is no way to run a business.

As the bill is currently written, it gives employers the tools to gut our collective agreements. This is supposed to stabilize the workforce during transition; in fact, it will demoralize long-term employees, whose best efforts are needed to make the new amalgamated city structures work. It will also leave a bitter legacy, ensuring difficult labour relations for years to come, as we try to win back what we had. The resentment against the provincial government will be as long-lasting and as bitter, as labour's current massive resistance already proves. The bill also changes the way decisions are made about whether workers will be represented by unions and which local union will represent them. This change jeopardizes stable labour relations.

The act gives the commission the power to make binding decisions where unions and the employers are unable to agree on matters such as bargaining units. These matters should be decided by the local union. Traditional bargaining structures should not be forced apart. For example, CUPE Local 79 represents employees in the municipality of Metropolitan Toronto's 10 homes for the aged. These full-time employees should continue to have the opportunity to belong to the same bargaining unit as other full-timers in Metro.

This government promised to find efficiencies and eliminate duplication of effort in the amalgamation of cities. As currently written, the bill creates a duplication of effort in replicating the very arbitration functions already performed by the Ontario Labour Relations Board. Further, the labour board has earned a measure of trust

from its record of dealing with employers and unions, using impartial expert arbitrators. A board filled by cabinet appointments will not be able to create even an illusion of fairness in judging labour relations matters.

The bill isn't needed. Other amalgamations have not been marred and hampered by difficult labour relations. Labour's record is good; so is that of the municipal politicians and administrators. The bill says these people cannot do their jobs. I assure you that we all can.

This government promised us less government, yet Bill 136 has interfered very drastically with the lives of many working people. As written, it curtails fundamental rights of association, imposing restrictions on who represents us and how we can be represented. Bill 136 doesn't do what you want. It won't work. It isn't needed. Please withdraw it.

That was pretty quick. We have lots of time for questions.

The Chair: We do have lots of questions. Thank you very much. We have about seven minutes per caucus, and we'll begin with the Liberal caucus, Mr Patten.

Mr Patten: Thank you very much. It was short and sweet, to the point, succinct. I certainly agree with your analysis of the context in which this bill is being worked through, and I share your view of the insulting manner of the time limitation and the inability of the opposition members to adequately respond and thoughtfully listen to the depositions that are put forward and then have the opportunity to develop our amendments and consider them, as well as to, of course, be able to receive the amendments that the government side has for its own bill.

I would ask you, though, Christina, have you heard the minister's comments? You know she made some comments in the House that she would change some very significant aspects. There was a qualified, "Well, that sounds like we're moving in the right direction, and it looks good if the words that you say translate truly into amendments that are in the spirit of the principles you espouse." Of course, we won't know that until we actually see them, and by the time we see them on Monday, it will be too late to amend any of those. In other words, we cannot see the amendments the government has and then say we disagree with this or that. We have to try to anticipate, just like most of the witnesses have. By the way, I've been keeping a tally, and 34 out of 41 witnesses to the hearings have had trouble with timing or feeling somewhat at a disadvantage in not having the amendments from the government in terms of this particular bill. I think there's a document outside, is there not, in terms of the minister's comments at the beginning of this? Did you have a chance to review that?

1630

Ms Duckworth-Pilkington: I haven't had a chance to see the minister's comments. I only know what was in the papers. As I said, we think it's a step in the right direction if there is not another way around restricting the unions. We hope that something isn't coming that will impose different restrictions on us.

Mr Patten: Let me ask you this. One of the things that has emerged, at least to my mind, is the difficulty for the arbitrators. It would appear — and I'm reading carefully the minister's comments — that while those two commissions are dropped, the provisions and the responsibilities and the functions will be transferred to the other bodies. Of course, there are two groups. One is the Ontario Labour Relations Board, which will work essentially with the workers who have a right to strike. Then the other ones break down into fire, police and hospital workers. Each of those acts will have to be amended. The minister explains that the same criteria that were there for the commissions will be transferred to those new bodies, which is hard to get, at least for me, because I'm not a labour lawyer and I'm not experienced in those kinds of negotiations.

We've had some testimony from union members and health care workers and different people that some of the arbitrators are getting nervous and they're feeling that they may be in a situation where they will be compromising their own professional position as an arbitrator with, as I guess the colloquialism is, these fettered conditions that they will have to live by in terms of considering how they're supposed to carry out their job. I wonder if you have any comments on that.

Ms Duckworth-Pilkington: First, I would just like to take a minute to introduce Len Roach. He is from CUPE Local 10, with the city of York. He just made it because we started a little early here. But he has also come down to assist with the presentation if we need help in fielding the questions.

As to speaking about binding arbitration for bargaining, of course we are not subject to that, and I haven't had much experience with it. I am certainly aware that we would look carefully at selecting an arbitrator for other purposes if we felt that they were acting unfairly or were very strongly pro-government, and it would jeopardize the arbitrator's livelihood.

Mr Patten: The reason why it's difficult without the amendments before us is because we don't know. But it breeds suspicion. If the minister is correct in saying, "I will be true to this," then why not have the amendments, for gosh sakes? They could draft them within a day if they were really serious about it. But I suspect that's not the reason; it's because there will be other things in there that perhaps the minister didn't suggest, but by leaving it out she can always say, "I didn't say I wouldn't do it." There are always those kinds of things that can happen, but it does breed suspicion. I'm worried about the fact that specifically now it looks like it's going to be on the quality of the arbitrators and the impartiality, neutrality and independence of that, and yet, these are only some examples. There were three or four, one from Bill 26 and some others that will be added, that are certainly still, in my opinion, tilted towards helping the employers with tools to look at cutting costs.

Ms Duckworth-Pilkington: We still feel strongly that the current system has everything that's needed to deal with labour relations in the way of arbitration.

Mr Christopherson: I was going to refer to the chronology of things and I wanted to be accurate, so I was checking on when a particular vote took place.

Thank you very much. I think it's quite appropriate that CUPE would have the unique position of being possibly the last group on the face of the earth to have anything publicly in a formal way to say about Bill 136 before it becomes the law of the land. In that light, I want to again, because you started out with that too, talk about exactly what has happened here in the process, because again process has gotten lost, and immediately a lot of people's eyes start to glaze over. But it needs to be understood, because the process used here last week is what lit the fuse to the crisis that, quite frankly, this government caused.

Last Tuesday night second reading debate on Bill 136 had gone along and then we broke off from it for a while and the government was doing other business in the House. Last Tuesday night they tabled the time allocation motion and called it up for debate last Wednesday. This is the time allocation motion. I want to indicate as much for people who are watching as for you, and to put it on the record, to understand exactly what they did.

The government stood up on Wednesday and read a time allocation motion that said, "When Bill 136 is next called as a government order, the Speaker shall put every question necessary to dispose of the second reading stage of the bill without further debate or amendment, and at such time the bill shall be referred to the standing committee on resources development." That's us.

That vote took place at 6 o'clock, and that shut down any further debate on second reading of Bill 136. That's when the labour movement went, "My God, they're going to drive this thing through, and they're not going to offer us up any public hearings."

The same motion went on to say that this committee will meet on September 23, 24, 25 and 26. We didn't meet on the 23rd, actually. We did some administrative matters, or tried to. So we've only had three days. That goes on until 5 o'clock now, so we're down to the last 20 minutes of the public process, such as it is. It was during this time, of course, that everybody went wild out there. There had been no discussions at that stage leading to anything conclusive, and the government just said, "We're shutting it all down, and we're ramming it through." This is on the Wednesday. The next day they had the formal vote on second reading.

Then it goes on to say that all proposed amendments must be filed with the clerk by 10 am on September 29. Today is Friday at almost 5 pm. All the amendments have to be in by Monday at 10 am. The government says they're listening. They've got no cabinet meetings scheduled. How are they supposed to pass any amendments at the cabinet level if there is no meeting? So they've already decided. This is just a sham.

Then they go on to say, "The committee shall be authorized...for clause-by-clause" September 29 and 30. Two days. It's the amendments, of course, as you know, that contain the new Bill 136, based on her announcement,

because after she riled up the whole province on Wednesday, she stood up Thursday and said, "I give."

Then it goes on to say that at 5 o'clock on the 30th — this is when we're supposed to be doing the clause-by-clause, the real bill — at 5 o'clock on Tuesday, "The Chair of the committee shall interrupt the proceedings and shall, without further debate or amendment, put every question necessary to dispose of all remaining sections of the bill and any amendments thereto." That means the government's new bill. That ends the process.

Then it goes on to say: "One sessional day shall be allotted to the third reading stage of the bill. At 5:45 pm or 9:15 pm...the Speaker shall interrupt the proceedings and shall put every question necessary to dispose of this stage of the bill without further debate or amendment." You're out, and we're out. That's what led to this. That's why everybody is so upset.

I want to ask you, as I've asked others, do you think a lot of this process that I've mentioned that got us into this crisis mode could have been avoided if, before June 3, when they tabled Bill 136, the government had reached out to CUPE and other unions and said, "We want to talk to you about this"? Could we have avoided all these unsettling actions we're seeing on everyone's part?

Ms Duckworth-Pilkington: Oh, for sure. I would hope we could have convinced them that they don't have a problem.

Mr Christopherson: Which you ultimately did.

Ms Duckworth-Pilkington: Yes.

Mr Christopherson: I'm just saying you could have done that ahead of time. Sorry, I didn't mean to interrupt you.

Ms Duckworth-Pilkington: I don't have more to say on that, really.

Mr Christopherson: I have one more question, then, and that is, given that the minister stood up and announced that she's gutting her own bill and that the amendments Monday really are the bill — not this — how important do you think it is, in terms of serving democracy and fairness, that you and others be given a fair opportunity to comment on that new bill rather than following through on this undemocratic ramming through that their time allocation motion provides?

Ms Duckworth-Pilkington: I think it's quite essential. I don't see why we need a time allocation motion. This is going to affect us for a long time. We're going to have to live with the results of it. If we can't get any further changes — I mean, I have no idea what's coming down.

1640

Mr Christopherson: Exactly.

Ms Duckworth-Pilkington: It could be something just as bad or just as unsettling for us, and we've got to live with this. We have got to go into a megacity, we have got to merge unions, we have got to merge work functions, and we don't need a poorly conceived labour relations bill when what we probably have now would work fine. We've got something that wasn't broken. We don't need to fix it in the first place. If we are fixing it, let's fix it properly.

Mr Christopherson: The irony is that they ultimately agreed with you. If they had just talked to you beforehand, we could have avoided all of this.

Mr Maves: I just want to clarify a couple of things. Time allocation motions were actually initiated by the NDP, and they've used them a heck of a lot more often than we have to date. So to say it's something that belongs to just us is totally unfair.

The other thing I'd like to point out that I've said several times is that on Thursday last week I tried to move a motion in subcommittee with the two members opposite so that we could start scheduling people a heck of a lot earlier, last week, for instance, for these hearings. They steadfastly refused to allow that to occur. That's one of the major reasons why you have late notice. Not only that, but they continued to filibuster Monday and Tuesday until 4:30, and that's when the clerks started to call people to make presentations. So to throw it on this side is totally unfair.

You've got something, again, in your presentation. You said that perhaps this is why AMO is not supportive of Bill 136. This is a myth that has been propagated quite often because of something they passed at their convention. I want to read from the Association of Municipalities of Ontario's letter dated September 4, 1997, to the Premier.

"Dear Premier:

"At our conference last week I, as president of the Association of Municipalities of Ontario...told you that we continued to support the principles espoused in Bill 136 but that we were of the opinion that more consultation was required. I was very pleased that you clearly understood our concerns, and that you gave me your personal commitment to more consultation on Bill 136. Yesterday we met with the Honourable Elizabeth Witmer, Minister of Labour, to reaffirm our support for the principles of Bill 136 and to indicate areas where we thought further discussions might be in order....

"We do, however, need the tools provided by this legislation to deal with the tremendous challenges we face in the coming year.

"We were pleased to have the opportunity to provide our reaction to the Ontario Federation of Labour's paper on an alternative to Bill 136. Briefly stated, while AMO does not agree with many of the statements made in the paper, it does believe there is some ground for compromise....

"In closing, I would like to extend my appreciation for your government's swift response to our request for consultation around Bill 136."

So, clearly, then, a lot of people are misstating AMO's position. They asked for the consultation.

Mr Christopherson: What was the vote?

Mr Maves: That's what the vote was about, and they've clearly said they support, as I said, the principles of Bill 136. They said they needed the tools provided in Bill 136. To say that they don't support the bill is really not fair, not accurate.

Ms Duckworth-Pilkington: Well, maybe they're supporting the bill as it has come through revised and changed. It sounds like a very tactful letter to me.

Mr Len Roach: I think the point is too that it's ammunition for AMO to take whatever whacks they want at CUPE members and other working people. So I'm sure that they, being on another side against us, would be quite willing to take the biggest bat they could get to offside the game. If you were to offer us the equally opposite offensive and strong position, we'd be fools if we declined it, but hopefully we'd be human enough to turn it down.

Mr Maves: You also say that the OLRB should take on the functions of a Labour Relations Transition Commission. As you know, that was one of the things the OFL asked for and received. You say that would be duplication and that that's the case and the OLRB is getting the control, the power of the LRTC.

Ms Duckworth-Pilkington: Confirmed.

Mr Maves: I want to ask you a question, though, if you don't mind. Sometimes we get making statements across the aisle. I know it's not always fair to presenters. You say, "The bill also changes the way decisions are made about whether workers will be represented by unions and which local union will represent them." We've said that's going to be put to a vote. If the bargaining agents can't all agree, we're saying that's going to be put to a vote. Is that all right? Is that acceptable?

Ms Duckworth-Pilkington: I have been referring to the bill as I understand it to be written, and I would like to reinforce what I see as any positive steps on your part.

Mr Maves: The thresholds have been removed, and if all the bargaining agents agree, then the units they agree to stand, the agents they agree to stand; if not, they have a vote. Do you support that concept, is all I'm asking, of voting for your bargaining unit?

Ms Duckworth-Pilkington: You're going to have to run that one by me again.

Mr Maves: It's just the concept that everyone who will be in the bargaining unit gets to vote for the bargaining agent. You don't have a problem with that, I would assume.

Mr Christopherson: Be careful.

Mr Maves: There's nothing to be careful about. It's that straightforward.

Ms Duckworth-Pilkington: I have some problems with the Labour Relations Board as it stands now. Are you finished?

Mr Maves: The last thing I just want to mention is that you do say in the second-last paragraph, "Labour's record is good; so is that of the municipal politicians and administrators." To that I would say that this bill never did purport to deem outcomes, for instance, like the social contract did. This bill allowed for, and encouraged in several places, collective bargaining. If municipal politicians and labour don't need to go to the OLRB, which was the LRTC, or the Dispute Resolution Commission or arbitration, wonderful. If you can collectively bargain everything, that is completely not only allowed for but

encouraged by this bill. It was still that way even after the changes.

Ms Duckworth-Pilkington: Despite the fact it did give the employer one really super advantage if they couldn't work things out.

The Chair: Mr Gilchrist, there's time for about a minute and a half's worth of questioning.

Mr Gilchrist: Very briefly, then —

Mr Rob Rolf: Could I just, on this last point from Mr Maves —

Mr Gilchrist: Well, could I just pose mine, because we only have a minute and a half, and the Chair is scrupulous about her timing. As we listened to the presidents of your unions, we really did want to get something out of these hearings. But the final point I'd like to get out of you, because it really is somewhat of a serious contradiction, is that we've had an opportunity to sit down. Forget about whether they took the invitations in July. Better late than never, all the stakeholders, employers and unions, sat down with the minister and the staff, and they came to us with a basket of concerns. In particular, there were five major ones. I'm sure these were the things that were articulated when many of the locals took their strike votes that are now outstanding. We listened, and I'm sure they were quite surprised, given the mythology out there, but the fact of the matter is, we said yes to all five.

Now put yourself in our shoes. If someone, as you do when you bargain for your own contracts, sits down and says, "Here are my concerns, employer," and the employer says yes to that, is it then fair to come back and say, "Well, I wasn't serious about that; here's my new basket of goods"?

There may still be a B list. But when you've gone on record, as Sid Ryan did on CFRB radio on August 18, and laid out — and he used the word "guarantee" — labour peace, how should we be reacting now if, having listened to the concerns, having met with them, having said yes and having promised to change the bill — and I absolutely assure you the amendments will be consistent with the minister's promise. What would you do in our shoes in terms of how we should proceed from here? Would it not be fair for us to say we've listened? Any time there's bargaining, nobody gets 100%, but the bill at least as it stands right now does reflect those concerns that Mr Ryan and others brought to us and that we have taken out.

Ms Duckworth-Pilkington: I would like you to continue to withdraw the whole bill, but otherwise, get the amendments out there and give people time to look at them.

Mr Gilchrist: If they're consistent with the minister, then that will assure you that she was serious about her promises?

Ms Duckworth-Pilkington: When you see something in writing, you certainly feel more assured.

Mr Gilchrist: I'd like to trust Sid Ryan, and I would hope that he was serious when he used the word "guarantee." So I respect the fact that you'll wait to see that, but I hope you'd agree with me that when people

make a commitment like that, they should honour it at the end of the day.

Ms Duckworth-Pilkington: I certainly agree that they ought to, yes.

Mr Gilchrist: Thank you again for your presentation.

The Chair: With that, we'll call an adjournment to today's hearings. We'll reconvene on Monday at 3:30. Thank you, everyone.

The committee adjourned at 1649.

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First Session, 36th Parliament

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Première session, 36^e législature

Official Report of Debates (Hansard)

Monday 29 September 1997

Journal des débats (Hansard)

Lundi 29 septembre 1997

Standing committee on resources development

Public Sector Transition
Stability Act, 1997

Comité permanent du développement des ressources

Loi de 1997 visant à assurer
la stabilité au cours de la transition
dans le secteur public

Chair: Brenda Elliott
Clerk: Donna Bryce

Présidente : Brenda Elliott
Greffière : Donna Bryce

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Monday 29 September 1997

Lundi 29 septembre 1997

*The committee met at 1533 in room 151.*PUBLIC SECTOR TRANSITION
STABILITY ACT, 1997LOI DE 1997
VISANT À ASSURER LA STABILITÉ
AU COURS DE LA TRANSITION
DANS LE SECTEUR PUBLIC

Consideration of Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act / Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.

The Chair (Ms Brenda Elliott): Good afternoon, everyone. The standing committee on resources development is called to order this afternoon for the purpose of clause-by-clause consideration of Bill 136, the Public Sector Transition Stability Act. I draw your attention to the packet of amendments and motions before you. In the top right-hand corner, each page is individually numbered. For ease of discussion, we'll refer to that page number, if that's all right with everyone, so we are all working from the same page of the amendments.

To begin, are there any comments, questions, or amendments, and if so, to which section?

Mr Richard Patten (Ottawa Centre): Madam Chair, I'd like to ask if you would rule today on whether the submissions are in order on the basis of the extent, the scope and the significance of the amendments. As the deputy minister said this morning in his briefing to the media, they are substantial changes to the bill. On five or six of the substantive issues of the bill, the heart of the bill, the amendments show a 180-degree turn.

I contend that this is out of order and that what should proceed is a redrafting of a new bill with these included, with time for the parties required to analyse and digest and consider the legal drafting of these amendments. As you will appreciate, we only had a couple of hours in opposi-

tion to look at these and try to digest them and consider what they are. In some cases, I must tell you, I have not had time to complete the full package. There are some questions we have related to some of the legalities of this bill that would make it difficult to respond.

However, having said that, my point with you is to ask you for a ruling on whether you believe, now that these submissions have been tabled from the government side, amendments to their own bill, that they are so significant as to essentially change the bill and require that a new bill be drafted.

Mr David Christopherson (Hamilton Centre): On the same point, Chair, I want to concur with my Liberal colleague. Our caucus feels very strongly that this whole process is just such a sham, and the proof is in the amendments we got today.

I would like to point out to you that Beaudesne, subsection 698(5) on page 207 says, "An amendment which is equivalent to a negative of the bill, or which would reverse the principle of the bill as agreed to at the second reading stage is not admissible."

The most important part of the bill is under the explanatory note, and it says, "The bill enacts the Public Sector Dispute Resolution Act, 1997 and the Public Sector Labour Relations Transition Act, 1997." Well, the content of both of those acts is now being negated, because the purpose was to set up the two commissions. That was the main purpose. If you look at the minister's opening remarks in the House at second reading, she focuses largely on the issue of setting up the two new commissions. That was why she didn't bring in amendments to other bills but rather a completely new bill, and I won't read the ridiculously long name, especially since it's such an oxymoron to what's really going on. But that was the reason that Bill 136 as a standalone bill was introduced.

1540

You will note, Chair, that the vast majority of the government's amendments go about dismantling the very things that Bill 136 was offered up to put in place. I think the test of Beaudesne, "which is equivalent to a negative of the bill, or which would reverse the principle of the bill," is met.

I would also ask you to consider the process. I realize that you can't make that the focus of your ruling, but to ignore it is to deny us in the opposition and, quite frankly, the citizens of Ontario natural justice. Our position all the way through has been that the hearings last week were a

sham, because people were coming forward and either commenting on a written bill that the government had already said it was going to gut completely or they were trying to second-guess what the minister might or might not do in an amended Bill 136.

That wasn't known to us until 10 o'clock this morning. It's now 3:45. Well, 150 pages of legally written amendments cannot be adequately dissected, considered, analysed, thought through and compared to existing legislation in an attempt to do a thorough enough job not just to come in here and comment, but as lawmakers we're actually going to vote on these amendments today. It's absurd. In my opinion, every member of the government, whether they admit it or not, in their heart knows that's the truth, and they also know that if they were sitting over here instead of having to follow the marching orders of the minister's and Premier's offices, they would be also outraged, because common sense dictates that this process has nothing to do with democracy.

Back to my point: I realize from some discussions between the clerk and my staff that there's a question of when the amendments are tabled and whether or not things are properly before us at the time that we're now making this request.

Two things: First, I ask you to consider that the amendments are there in front of us, and the time allocation motion says that now they're in front of us, they will be deemed by 5 o'clock tomorrow. I would say to you with great respect, Chair, that whether or not individually they've been presented to you, the fact is that the process forces them to be in front of us; therefore, in my humble opinion, you would have to rule it in order that you consider all the amendments when you consider the point my colleague from Ottawa Centre and I raise regarding whether or not these amendments negate the principles contained in Bill 136 at second reading.

I would ask you to rule on that first. If you rule in the negative, I'd like an opportunity to respond to that, if I could. But I very much ask you to consider that now. If you need a recess to talk with the clerk, I find that totally acceptable. This is a serious point of order, Chair. There's no small-p politics being played here. Richard and I are offering you the very legitimate argument that these amendments stand the test that Beauchesne lays out on page 207 about negating the principles contained in second reading. I've got to tell you, I don't think a clearer example has happened in the history of Ontario.

To end my comments, our remedy would be that in ruling these out of order, you would in effect be telling the government that because they have negated the main principles in 136 at second reading, they must do the right thing, and that is submit a new bill, because that *de facto* is what we have in front of us, a new bill. With that in mind, we deserve to have some proper hearings; we deserve to have an opportunity to review these properly, not this ramming-through process where at 10 o'clock in the morning we get 150 pages of what basically amounts to a new bill, and by 3:30 in the afternoon we begin debating and voting on them and enacting them into law.

Mr Bart Maves (Niagara Falls): To speak to this, in my opinion and I believe in the opinion of my colleagues, the principles of the bill are still there. Those principles, I would reiterate, are to provide necessary tools for restructuring, to ensure the smooth transition and deal fairly with union and non-union employees, to minimize service disruption and have better-quality services at less cost to the taxpayer. Those principles are still preserved in the bill.

The long title of the bill speaks to those same principles. That is An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act. Each of those things is still very much a part of the bill.

The parts of the bill that made up the Dispute Resolution Commission, the choice of procedures in the expedited proceedings, those powers that were to be given to the Dispute Resolution Commission, are still in the bill. They have simply been put over, as was discussed when we consulted with labour and the other stakeholders. They wanted those same procedures in the expeditious resolution of these disputes, but they wanted those things to be turned over to a different body, a body other than the Dispute Resolution Commission. By doing so, the bill still does look after expeditious resolution of disputes. Granted, it doesn't do it through a body that had been named in the bill, but it does do it through existing procedures, procedures which have been followed in Ontario for quite some time.

As well, there were new rules and new procedures for the Labour Relations Transition Commission to help engage the same broader public sector services and help them with the transition to new bargaining units, new bargaining agents and how that was going to occur. Those things are still very much in the bill. In fact, they've just been given to a different body also, to the Ontario Labour Relations Board, a board that has looked after adjudicating in these areas for quite some time. The expeditious procedures that were in the bill, that are a principle of the bill, have just been transferred to another body, but they haven't really changed. I think that's something to consider.

There are also points about, for instance, seniority in the bill, ways to guide the labour relations board in how it looks at seniority of, for instance, non-union employees. It's still very much in the bill and germane to the bill. It was something that was vital and was one of the principles we followed.

The second principle I talked about was to ensure the smooth transition and deal fairly with the union and non-union employees. That's still there and therefore the bill still speaks very much to its original intent.

We also talked about minimizing service disruption as a principle of the bill. When these functions of the DRC and the functions of the LRTC are given over to bodies like the OLRB and to arbitrators who will arbitrate

disputes, that indeed helps us to minimize service disruption in all those sectors, which was a principle of the bill which is still being met by the bill.

Better-quality services at less cost to the taxpayer: We believe the bill will add to this through aiding the smooth transition of the process to different bargaining units in amalgamated municipalities, school boards and hospital boards. We think that's going to help us to deliver better-quality services at less cost to the taxpayer.

I believe that while there have been several changes made to the bill, changes which we've talked about for quite some time, the cut and thrust of the bill is still very much there.

1550

I would also point out, concerning Mr Christopherson's claim about getting late notice of amendments, that amendments on all bills are always filed prior to clause-by-clause and not before. This is not new. This is something that has happened with all bills under this government. I might point to the social contract, where, for the two days of committee of the whole they had for the social contract, the amendments were brought in in the morning, the two mornings they were to debate those amendments. To say that a large body of amendments to a bill being brought in just before the bill gets into clause-by-clause is highly unusual is not true at all; it's in fact quite standard. I don't think that is a reason to say that the bill is out of order. I think I'll let those arguments rest for the moment.

Ms Shelley Martel (Sudbury East): I want to speak to the same point of order and follow up from where my colleagues from Hamilton and Ottawa have been. I think the test you are being asked to consider is a fairly straightforward one. It goes back to the test been laid out in Beauchesne, which my colleague from Hamilton has already put to you and I will repeat: "An amendment which is equivalent to a negative of the bill, or which would reverse the principle of the bill as agreed to at the second reading stage is not admissible."

The argument we are making is whether you as Chair should use the following test, and we argue that you should; namely, has the bill been so significantly altered since second reading to the extent that a new bill would now be in order and that the amendments the government proposes, which were dropped on the public today, should be then declared out of order? In other words, have the fundamentals upon which the original bill was based been so changed since the debate at second reading that the government itself would be well advised to do the right thing, withdraw the bill and bring in a new bill which would accommodate all the changes that we gather the government is trying to accommodate through the amendments?

If I might, Chair, I listened to the minister's second reading debate. I listened very carefully to it. Much time on that second reading debate was spent dealing with two particular acts: first of all, the Public Sector Dispute Resolution Act, 1997; and secondly, the Public Sector Labour Relations Transition Act, 1997. The explanatory note sets it out very well. The first act, the Public Sector

Dispute Resolution Act, 1997, "creates the Dispute Resolution Commission and authorizes it to resolve collective bargaining disputes with respect to certain workers in the broader public sector." Quite a lengthy part of the bill is devoted to the creation of that particular committee, looks at its composition and looks at some of its powers.

The argument I make with respect to that first bill is that now we no longer have the creation of that very commission which formed a fundamental part of the first act the minister was moving forward in Bill 136. It formed a significant part of her comments on second reading debate for Bill 136.

The second act, which she spent a great deal of time talking about and which Bill 136 is also devoted to, had to do with the creation of the Labour Relations Transition Commission itself. That came under a second act in Bill 136, namely the Public Sector Labour Relations Transition Act, 1997. The explanatory note says the following: "The act creates the Labour Relations Transition Commission, and authorizes it to make decisions and orders respecting the temporary labour relations and collective bargaining scheme set out in the act."

Again, the minister spent a great deal of time on Bill 136 talking about the need for this commission, what its composition would be and how it would act with respect to dealing with disputes. That schedule, with respect to the establishment of that particular committee, its composition etc, took up a great chunk of the second schedule of this bill, namely schedule B, and forms a large part of the bill which the government now will be asked to vote against because the government is no longer creating the two commissions that were the basis of the two acts it was moving forward, outside of the pay equity and wage protection plan. The government itself will be in the embarrassing position this afternoon and tomorrow of having to vote against huge chunks of schedule A and then huge chunks of schedule B to reverse totally their position with respect to the creation of those two bodies.

My argument is that as we have moved from second reading and the principles outlined by the minister, we have seen a significant alteration in the intentions of this government, so significant that two bills which form part of the four bills are no longer relevant in many respects and the government will spend its time over the next two days voting against huge sections of both of those two schedules, because they are getting rid of the commission, the composition will change, and of its powers, some will be transferred to the OLRB and some won't.

The argument that we're making with respect to Beauchesne is that the principles outlined by the minister at second reading debate have been significantly altered, not just the principles but the bill itself. As we see in the amendments which were dropped on us this morning, there have also been very significant changes to the government's direction, and the government will face the prospect now of voting against many sections of the original bill.

My argument is that of the 150 pages of amendments, versus the 63 pages of the government bill, many of the

principles have been changed, many of the fundamentals upon which the original bill rested have been changed and the government's direction will be reversed. As such, it's incumbent upon you as Chair to rule the government's 150 pages of amendments out of order and to guide the government in determining that a new bill should be brought into this place and that members of this assembly and members of the public should now have some time to deal with the amendments as they appear in black and white, since the minister and this government refused to allow the public to do so last week during the public hearings.

As we follow Beauchesne in terms of talking about whether a bill has been negated, it is our argument that fundamentals of this bill have been negated and the government has switched its direction with respect to substantial portions of this bill 180 degrees; the amendments therefore should be ruled out of order, because the principles of the bill that were outlined at second reading are no longer the principles the government is moving on and substantial portions of the bill have been changed as a consequence. We should be dealing here today with the withdrawal of the amendments, with them being ruled out of order, and the government being forced to bring in a new bill which clearly articulates its changes and which should clearly allow the public to have some ability to read through them and make comment on them before this committee moves forward again.

Mr Pat Hoy (Essex-Kent): We are raising serious points on how we do business and have done business in committee and the democratic process. Bill 136, as introduced, was not needed to take the government where it was heading. The amendments now put, however, are the direction the government has in mind. There are substantial changes in these amendments, many pages of them, and they negate the thrust of Bill 136. To date, no one in the public has spoken to these amendments. We went through many days, long days, of public hearings, and no one spoke directly to the amendments we just received this morning. In that these amendments negate the thrust of Bill 136, I'm suggesting that these amendments are out of order and that Bill 136 should be withdrawn and a new bill is required.

I think the precedent that could be set here is one that takes a lot of diligence on your part, Chair. We must move to protect the way committees do business. We must protect the rights of those who want to comment on government legislation, and to date no one in the public has spoken to the amendments put forth on Bill 136 nor, as we sit here this afternoon, will they have a chance to speak on the amendments to Bill 136. I can't reiterate enough that I think the bill should be withdrawn and that a new bill is required.

1600

Mr Patten: I would like to support the points that have been made on this side and suggest that the bill essentially is a means of achieving a purpose. There are five major areas of activity. The two sections that are also considered part of the bill are truly amendments to other acts that have nothing to do with transition. The Employment Stan-

dards Act and the Pay Equity Act have essentially nothing to do with the smooth transition other than being irritants and causing difficulties for employers, negative factors in the bill.

Having said that, I want to reinforce the point made by the member for Hamilton Centre that technically, with the time allocation motion, once we open up comments for clause-by-clause they are officially on the table. Whatever we get to tomorrow night, the balance is deemed to go forward and be passed. I would argue that you can't deem something to be passed one by one, because they are viewed as a collective, total package. I would make that argument first.

The other thing I would say is that the bill has 79 sections. Through the government amendments, 76 sections are amended or struck out either by being voted down or deleted. I would think this adds to the point Beauchesne makes in this comment on page 207.

Mr Maves: In citing Beauchesne as the equivalent to a negative of the bill, which is what Ms Martel has argued, I want to say that quite clearly it is not the case that it's a negative of the bill. With the changes that labour, employers and the government have agreed to, the bill doesn't now promote the unexpedient resolution of disputes; in fact, it still promotes the expeditious resolution of disputes. It doesn't hamper collective bargaining; in fact, it encourages it, which is an original principle of the bill. It still deals with restructuring in the public sector. It still deals with the ESA and the Pay Equity Act.

The structure of the bill is very much the same as it was before. Many amendments — there are many — simply eliminate the two proposed bodies that were to carry out these duties and allow them to stay with existing bodies. Also, many of the amendments, even about a third of the Liberal Party's amendments, are simply a name change. To concentrate on the number of amendments is a little misleading when so many of them just concentrate on changing from the Labour Relations Transition Commission to the Ontario Labour Relations Board, so I don't think that should be given that much weight.

The principal argument here that it's equivalent to a negative, as I've said, is completely incorrect. It is the choice of procedures and the guide to seniority decisions, the guide to deciding bargaining units and bargaining agents that are the key to the bill. It's not the bodies that administer these things; it's those guides themselves and the procedures and the guidelines that are the keys to the bill, and they remain in the bill. Therefore, the bill still very much has its original intent and should be ruled in order.

Mr Christopherson: I won't repeat anything, but I would like to add to our case for an out-of-order ruling by pointing out that the bill itself is made up of two pages of explanatory notes and six pages of bill, the legal part of what we would normally call the bill. The rest of it, from page 7 through to page 63, is split between schedule A and schedule B. Given the shortness of time, I wish I had opportunity to give you a fuller, more detailed, itemized argument, but I can only do so much in the time frame this

government has given us. But let me point out what I've been able to do so far.

Given that the schedules are obviously where the action is, because they're such a large percentage of the bill, and given that that's where the changes are, I would like you to consider — and I stand to be corrected on perhaps one or two of these. I've done it quickly, but I'm sure I'm correct on the vast majority of them.

In schedule A, the government is going to vote entirely against section 3. They're going to vote against the entire section 4. They're going to vote against the entire section 5. They're going to vote against the entire section 6. They're going to vote against the entire section 7, the entire section 8, the entire section 9, the entire section 10, the entire section 11, the entire section 12, the entire section 13, the entire section 14, the entire section 15, the entire section 16. They've got a nine-page amendment to section 17. Section 18 is out, followed by four or five amendments, from what I can quickly count, one of them being a five-page amendment that goes in a completely different direction from the section they just voted against. They completely eliminate section 19, eliminate and replace major parts of section 20 and completely eliminate section 21.

If I had enough time, Chair, I'm sure I could make the case to you that schedule B is exactly the same way. All you need to do yourself is take a cursory look at the number of amendments, as I just did, in schedule B, where the government's motion is, "Strike out section so-and-so." My point is that there is evidence.

If you look at the explanatory notes, which take up a page and a half, a page and a third are devoted to talking about the Public Sector Dispute Resolution Act, which creates the Dispute Resolution Commission; and the Public Sector Labour Relations Transition Act, which creates the Labour Relations Transition Commission. It creates those two commissions. The explanatory note is a page and a third out of a little more than a page and a half on those two acts. Those two commissions are not going to be created at all. All the processes the parliamentary assistant talks about are going into other pieces of existing legislation, amending those pieces of legislation. We're glad they are, but that is so fundamentally different from what Bill 136 is about.

Further, the balance of the page I spoke of, the second page of the explanatory note, is on the Employment Standards Act. They're making amendments there, but not to the wage protection plan. The Pay Equity Act is the last piece on the second page of the explanatory note. They're making some significant changes there; again, we're very supportive of those, but they change the nature.

In other words, even where they aren't offering up a completely different new principle, there are at least amendments. There's nothing in Bill 136 that remains untouched. But when a page and a third of the explanatory note is taken up talking about the creation of two commissions and schedule A and schedule B provide the details of how those commissions are going to work, and they represent 85% of the pages of the bill, and you're no longer

going to create those commissions, Chair, I humbly and respectfully submit it's not a stretch to suggest that the test of Beauchesne is met. It's a new bill. It deserves to be stopped and offered up as a new bill and given a reasonable period of time.

I can tell you, members of the government benches, I'm prepared, and I'm sure that the member for Ottawa Centre is, to sit down and talk about what a reasonable period might be. I mean that. Quite frankly, at this stage, according to our legal people, given the short time we have, so far it looks like the amendments have met the words of the minister.

Use common sense. If you called a lawyer and said, "Give me an interpretation on" any one clause, do you know how much time they're going to spend looking at it, the best of lawyers, analysing it and couching it 16 different ways from Sunday? Then if you said, "Check another 200 clauses for me," they'd say: "What do you think I am, some New York law firm? I can't do that in a few hours. Don't be ridiculous."

1610

The fact of the matter is this is not an unreasonable position. Given the fact that it looks like it's okay, all we want is a decent, democratic, fair length of time to have it looked at, to have a few people come in and put it on the record, and if they've got some problems, let's hear what they are.

Please, members of the government, bear in mind that we can't make any changes to the amendments you've tabled, even if we find out sitting here that there's something screwy — because we've had a chance to look at it maybe a little more than the lawyers, who have probably been working, God bless their souls, around the clock getting us to this point. The rules don't even allow us by unanimous consent to change any of the amendments. We couldn't change an amendment even if we all looked at it and said: "You know what? We agree with the intent, we agree with what you want to do, but we see a problem here. Look at this, it's a glaring mistake." We've all seen it; it happens. We can't do it at this committee. We don't have the power. The time allocation motion handcuffs us. We can't change any of the amendments. At 5 o'clock tomorrow, they're all deemed and that's it.

I submit to the Chair and to the members of the government benches that I'm prepared, and I'll stand by my words, to sit down and negotiate in good faith at the sub-committee level a reasonable, quick process that allows us the opportunity to do some natural justice to this, respecting the government's majority desire to get it through quickly, but to give us a process that at least has some kind of fairness to it. You're going to wear this from now until the end of your term, and you're going to wear it in the next election. You know that.

Chair, you could help that process. I realize you've got two hats to wear. I want to say, and I mean this sincerely, that by and large, with a couple of exceptions, I think you've tried to be as fair a Chair as you could, recognizing you're still a member of the Tory government; but you have been. On a couple of rulings I think you blew it, but

not major ones — other than shortening my time when it was my time to speak and giving everybody else all the time they wanted. But I don't want to be picky about it.

But you've got an opportunity now to give some serious consideration to what we are suggesting here. Should you rule that it's not allowed, I'm prepared to immediately move into a meeting of the subcommittee and I'm prepared to stand by the fact that I will be reasonable and fair and talk about an efficient process that allows a new bill to get through relatively quickly, but allows us at least some opportunity to have real input, because this current process has no credibility.

I would ask you to please give our submissions the serious consideration we're requesting, because they're meant very sincerely.

Mr Maves: I have two points that I think are relevant to make. It's true that there were many sections in the bill to establish the two bodies, the Dispute Resolution Commission and the Labour Relations Transition Commission. Therefore, obviously to eliminate those bodies and transfer the responsibilities to existing arbitrators and the OLRB would require eliminating the many sections that were there to create the bodies in the first place. But that alone doesn't change the principle of the bill. We transferred those responsibilities from one body to other ones. Because there are many sections of the bill establishing a body, that alone does not change the principles of the bill.

The member also talked about the fact that other acts, for instance the Fire Protection and Prevention Act and the Hospital Labour Disputes Arbitration Act and so on, are opened up and changed by this bill. That was the case before. The bill did that when it was initially introduced and the bill still does that now. That is not a departure from the original bill as it was first brought out.

I just wanted to make those points.

Mr Christopherson: Very briefly in response to the parliamentary assistant, I hear what he's saying. My arguments still stand, but I would say in response to what he's just said that our point in asking you to rule, Chair, is not to be obstructionist, but rather, that could be the step that forces this to be a new bill. Why do we want that? Because that will ultimately allow people to come forward during quick, short hearings, for a chance to make submissions on a real bill.

I don't argue that the parliamentary assistant is correct when he says they've offered up a different way of doing things, but they are equally complex, they are equally wrapped up in legalese and procedure. As we all know, when you're dealing with commissions and processes and appeals etc, the actual wording of the amendment is crucial. I am not a labour lawyer. I would like to have the benefit of someone from both sides of the argument, from the employer side and the employee side, who is a labour lawyer, expert in the field, to come in and say, "This will work," or perhaps, "This won't, and although it doesn't here's another way of doing what you're setting out to do."

That's why we want you to rule this way; that's the purpose. It's all up front. There's nothing hidden here. It's

about forcing the government to bring in a new bill because we just can't get them to realize they've got an obligation to take these amendments and run them back through. They won't do it. The only way we can force it is if this is ruled out of order. The purpose in doing that is so we can have some public hearings, but unlike the sham of last week; that people can come in and comment on a real bill. Every comment that was made last week by and large was useless, because they were either on a bill that you've now thrown out the window or they were second-guessing what you might put in front of us, which we've only had for a few hours now.

Yes, I agree with the parliamentary assistant's points, but what he fails to say is that democracy and fairness also dictate that people have a chance to comment on the complex processes that are eliminated from 136 and now replaced by amendments. We don't even get that opportunity as legislators, as parliamentarians, as lawmakers; we aren't given that chance, let alone the public. They should have it, and it'll make for a better law.

Mr Patten: I have two points to make. One is related to Mr Maves's comments. The LRTC, which has been done away with but is replaced by the OLRB, is not a modification of the transition commission. This is a body that exists, has its own procedures and its own jurisdiction, so to say you're transferring something in name only is not the case in this particular instance.

My comments are short, but I would like to read, just to remind ourselves of the principles of parliamentary law, the very first principle of Canadian parliamentary law:

"To protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business in an orderly manner; to enable every member to express opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse."

Madam Chair, I want to leave you with that thought, particularly "to give abundant opportunity for the consideration of every measure," which I believe applies in this instance.

The Chair: Colleagues, you have given me a few things to think about. With your indulgence, I'd like to take a recess of perhaps 15 minutes to consider this. We'll stand recessed for 15 minutes.

The committee recessed from 1619 to 1637.

The Chair: Colleagues, the standing committee on resources development is once again called to order for the purpose of clause-by-clause consideration of Bill 136, the Public Sector Transition Stability Act.

In response to requests by Mr Christopherson and Mr Patten and after listening very carefully to a number of members, to the I would say compelling arguments presented on all sides, I have thoughtfully considered what you have said to me.

As you know, I tremendously respect the institution of our Parliament, and I have taken this very seriously in consultation with the clerk's office and with legal counsel.

Although I'm sure this answer will seem frustrating to several members of the committee, I think the wisest ruling for me to make at this point is to indicate that it would be inappropriate for me to rule on the entire package of amendments, that it would be most appropriate and the best procedure for me to rule on individual amendments moved before this committee. That, therefore, is my ruling on this particular request.

Mr Christopherson: Just a clarification before I make a statement. Part of our concern is that if you take each amendment individually, in and of themselves they may not — they may, but they may not — meet the test of Beauchesne, but taken together, the cumulative effect is, in our opinion, that they do. Therefore, my question to you is, in making your ruling, will you limit yourself to just the amendment that's in front of us, or, given what I have just said, will you consider the cumulative effect of a number of amendments on the original bill?

The Chair: Normally, there shouldn't be debate on the Chair's ruling.

Mr Christopherson: I was asking for clarification.

The Chair: I would take this as a question for clarification. My answer to you is that it would be appropriate that when each amendment is before us, we would consider it from a number of perspectives, the individual amendment itself and in the bill as a whole. I guess my answer to you would be that we would be looking at all those aspects.

Mr Patten: I kind of expected something along those lines. With all due respect to you personally, I must offer a challenge to that ruling. I would be prepared to ask for another ruling. You said you'd be prepared to respond to the individual amendments. The basis of my challenge is that if these amendments as put forward are not controlled and dictated by the time allocation motion as a package, then why is it that all those that are not dealt with, that complete package, is deemed to go forward? I submit it's a package.

Mr Ernie Hardeman (Oxford): On a point of order, Madam Chair: I was just wondering whether a challenge to the Chair is debatable. I understood the member was challenging the Chair and then proceeded to discuss the issue. Either he is challenging the ruling of the Chair or he's not.

The Chair: You're quite right. It is not debatable. The Chair's ruling has been challenged. It is now appropriate, then, for me to put the question, shall the Chair's ruling be appealed to the Speaker?

Mr Christopherson: Recorded vote.

Ayes

Christopherson, Hoy, Patten.

Nays

Froese, Hardeman, Maves, Newman.

The Chair: It is lost. All right. I shall now put the question again: Are there any questions, amendments or comments to the bill, and if so, to which sections?

Interruption.

The Chair: You're out of order, sir.

Interruption.

The Chair: I'm sorry, sir. This is a committee for committee members only. You're out of order. I'm going to have to ask you to leave.

Interruption.

The Chair: Sir, public hearings are completed on this bill. We are now in committee clause-by-clause. Kindly take your seat and allow the committee to continue its business.

Interruption.

The Chair: Sir, you're able to comment at any time, but you are not able to do it in this particular forum at this time. This is the committee members.

Interruption.

The Chair: Kindly take your seat. Take your seat, please. We must continue.

Interruption.

The Chair: Sir, we cannot continue if you disrupt this meeting. Would you please take your seat or I shall be forced to call a recess.

Interruption.

The Chair: Sir, we must continue. You are not in order. This is a committee meeting for members of the Legislature, of which you are not, sir.

Colleagues, I put the question again: Are there any comments, amendments or —

Interruption.

The Chair: Sir, I ask you to take your seat and do not continue to disrupt this committee.

Colleagues, I put the question again to committee members: Are there any questions, comments or amendments to the bill, and if so, to which sections?

Mr Christopherson: Chair, if you're not going to allow him a chance, which these rules don't, then you've got to be a little clearer in telling him that under these rules he doesn't get any say and neither does anybody else from the public, and after 5 o'clock tomorrow we don't get any say. You ought to be very, very clear and tell the member of the public and anybody else who asks, "When do I get to comment on the new amendments?" that they don't, that Mike Harris and Elizabeth Witmer have said, "Your opinion doesn't matter." They've listened to all those they're going to and it's over. Whether these are good amendments or bad amendments, nobody else in Ontario gets another say and elected members of the opposition don't get a say after 5 o'clock tomorrow. Tell him the truth.

The Chair: I have no questions, comments or amendments to the bill on the floor. Shall section 1 carry, then? Shall I put the question?

Mr Christopherson: Section 1?

The Chair: Section 1. All right, colleagues, I put the question: Shall section 1 —

Mr Christopherson: No, Chair, I want to speak to it.

The Chair: Sorry, Mr Christopherson. Comments to section 1.

Mr Christopherson: Section 1, interestingly, is all of schedule A, approving all of schedule A, yet a vast number of the amendments are to eliminate schedule A and a vast number of other amendments are to change parts of schedule A. I find it strange that the first thing we're doing is to pass section 1, which is to give effect to schedule A.

I know you're ruled on the whole thing overall, but I am asking you, Chair, specifically on section 1 how it is that we would be in a position of voting on section 1 which legalizes, if you will, schedule A, yet the government's about to massively change schedule A? How is that? We're voting on a schedule that's about to change dramatically. I would suggest to you, Chair, with respect, that this vote can only happen after the amendments to schedule A have been passed or turned down so that we know exactly what schedule A is.

The Chair: Is there further comment or discussion on this?

Mr Maves: It's an enacting clause. In several bills we've had public hearings on, this is a similar process. It allows us to enact schedule A of the bill in its final form, which will obviously occur at the end of this process. This is the correct spot for the enactment of schedule A to be in the bill, the preliminary part. It's no different from any other bills in the procedures, the order of doing things in other bills.

Mr Christopherson: I'm not wholly convinced of that, but could I ask the parliamentary assistant to explain to me the difference between current schedule A and what it's going to look like in its final amended version? Obviously, he must be comfortable enough knowing what the new one's going to look like that he's ready to vote on it. Maybe he can help me.

Mr Maves: This allows the enactment of schedule A, once we have a schedule A. It's appropriate to be in this position.

Mr Christopherson: But my question, since section 1 is to approve schedule A, is that I'm asking the parliamentary assistant to explain to me — because that's part of what clause-by-clause is. It's an opportunity for us as members of the committee to ask the government representatives what certain things mean and then determine whether we think they should be supported. With that in mind, my question is, what is the detailed explanation of what the difference is between schedule A as it now stands and schedule A as it will be by the time your amendments are concluded?

Mr Maves: That gets us into debate about all the amendments of the schedule, and those are inappropriate to have —

Mr Christopherson: But we're voting on the whole schedule. Chair, I think it's —

Mr Maves: It's an enactment clause.

Mr Christopherson: It says, "The Public Sector Dispute Resolution Act, 1997, as set out in schedule A, is hereby enacted." Not schedule B, not other clauses prior to schedule A, but schedule A. You've said, by the sound

of it, Chair, that you're going to allow this vote even before we amend it. I'm asking at the very least for an explanation from the parliamentary assistant of the difference between the existing schedule A, as was printed in Bill 136 that we approved at second reading, and what schedule A will look like and mean in detail by the time his amendments are concluded. How could that not be in order?

1650

Mr Maves: If it pleases Mr Christopherson, I'm willing to stand down sections 1 and 2 until after we've gotten through schedules A and B. That's fine with me.

Mr Christopherson: Good. That's what I asked for.

Mr Maves: I don't know if my colleagues have any comment on that or feel the same way, but it's fine with me.

The Chair: All right. In order to move to another part of the bill, to change the order of the way we deal with a particular part of the bill, unanimous consent is required, colleagues. Do we have unanimous consent? We have unanimous consent.

Sorry. Did you refer to sections 1 and/or 2 or just 1?

Mr Maves: Mr Christopherson had said sections 1 and 2, which is the enactment. Section 1 is the enacting clause for schedule A and section 2 is the enacting clause for schedule B. I'm assuming his logic for schedule A carries over to schedule B; in fact, I think he said that in his opening comments.

The Chair: I thought you had. I just was double-checking.

Mr Maves: I'd just ask the clerk if this poses any problems at any point in time with regard to procedure.

The Chair: I'm informed that it does not.

Mr Maves: I didn't think so.

Mr Christopherson: With your time allocation motion everything gets rammed through at 5 o'clock tomorrow afternoon. Let's not kid each other.

The Chair: Moving on to section 3, we have an NDP motion, but unfortunately I must rule this particular amendment out of order. It violates the standing orders with regard to a financial matter that shall be proposed only by a minister of the crown.

Mr Christopherson: Chair, since it's our amendment, the purpose of this is to restore the wage protection plan that this government is eliminating. It's not an expenditure of any new money. It's maintaining an existing program. If you look at the motion, it says, "I move that subsections 3(3), (4), (5), (6) and (7) of the bill be struck out and the following be substituted." This merely puts back in place what's already there. I'm not seeking any new money, but I am trying to amend and ameliorate the fact that the government is gutting and eliminating the only protection that workers who face bankruptcies, who are owed back wages, have. How can it possibly be out of order?

The Chair: I can only say to you that I looked closely at this and at the standing orders and I am of the opinion that this particular amendment is out of order.

Mr Patten: I'd like to underline the fact that I think it says in the standing orders "any new financial commit-

ments" or additional financial commitments. I don't believe this does that. This is essentially maintaining —

Mr Tom Froese (St Catharines-Brock): On a point of order, Madam Chair: I think you ruled on this. If they're challenging the Chair, they must state that they're challenging the Chair's decision instead of debating the issue.

The Chair: You're quite right. I refer my colleagues to section 56 of the standing orders for the reasons for the ruling.

Any further comments or discussion on section 3? Then I'll put the question. Shall section 3 carry? All those in favour? Opposed? Section 3 carries.

On section 4, we have a government amendment, on page 5.

Mr Maves: I move that subsections 4(1), (2) and (3) of the bill be struck out and the following substituted:

"(3) Subsections 13.1(3) and (4) of the act, as enacted by the Statutes of Ontario, 1993, chapter 4, section 8, are repealed and the following substituted:

"Same

"(3) Clause 14(2)(a), subsections 14.1(1) to (6) and 14.2(1) and (2) apply, with necessary modifications, to the negotiation or preparation of a new plan."

The Chair: Do you wish to speak to this?

Mr Maves: Chair, I ask Ministry of Labour counsel to speak directly to this, initially.

The Chair: Please introduce yourself for the Hansard record.

Mr John Hill: I'm John Hill. I'm a lawyer with the Ministry of Labour, legal services branch. The difference between the text of the Pay Equity Act, as it would be enacted if this motion is passed, and the version that appeared in the first reading version of Bill 136 is this: On a sale of a business, the purchaser of the business under the Pay Equity Act can make a new plan. Under the current law and under the law as it would have been made by the original version of Bill 136, the purchaser is still bound by the seller's gender-neutral comparison system. It was considered that this was inappropriate, so the change made by this motion, which is to make clause 14(2)(a) of the act applicable, which it wouldn't have been under the original Bill 136 version — the effect of that is to relieve the purchaser from the obligation to continue using the seller's gender-neutral comparison system.

Mr Christopherson: To the parliamentary assistant, does this have the effect of relieving employees from the burden of carrying the pay equity increase in their wages that they'd received prior to the merger or amalgamation, or could it at least lead to that?

Mr Maves: This allows the purchaser to have a new plan which is relevant to the new entity.

Mr Christopherson: My question is, though, that the reality for some women, as I understand this amendment — and God knows I could be wrong. I mean, I may have wasted that whole three or four hours I've had to legally analyse every one of the amendments. My understanding is that without this amendment you're putting in, if there was a pay equity plan in place and a woman had received

an increase that she was entitled to, any merger or sale or amalgamation could not, by law, result in her having that money taken away. My further understanding is that your amendment would allow that to happen. Is that true, yes or no?

Mr Hill: Under the original Bill 136 amendment in this area the purchaser would have been relieved from the requirement that's currently in the Pay Equity Act to abide by any adjustments in the seller's pay equity plan. The amendment made to the act by Bill 136 in its original version would have relieved the purchaser from that obligation. This motion doesn't change anything in that respect.

Mr Christopherson: So you're saying these amendments don't necessarily cause that, but when Bill 136 is passed into law, amended or otherwise as a result of amendment 5, it's my understanding that a woman who has received pay equity increases, which means she's among the lowest-paid workers in this province or she wouldn't have got any increase anyway — if she were receiving pay-equity-adjusted wages, under the existing law that was protected and no one could lower that, and the effect of Bill 136 as amended here today is that her wages could be lowered. Is that correct? Yes or no.

1700

Mr Hill: The effect of the amendment is to deal with adjustments that were called for in the seller's plan. It doesn't deal directly with the question of whether or not adjustments, once made, could at some later date be rolled back. The amendment simply doesn't deal with that issue.

Mr Christopherson: I don't mean to be difficult. I realize you're doing the best you can, which is why it would be helpful if the parliamentary assistant would answer me in everyday language, as opposed to the need — and I respect the position you're in. I truly do. That's why I don't want to turn the heat up on you per se. Maybe the parliamentary assistant would answer in the same kind of language I'm using.

I'll try again. It's my understanding that as result of Bill 136, pay equity increases that otherwise would have been protected by law will now be vulnerable to having those increases, and therefore their wages, cut. Bart, is that true or not? An explanation, please.

Mr Maves: Yes, in a sense that's true, because the purchaser has to make a new plan which is relevant to the new entity. If there is a different comparator that's able to be used where there is a lower wage, it can be moved to that lower comparator.

Mr Christopherson: I want to be very clear on the ground we're on here: If you didn't move this section as amended in Bill 136, under the existing law could that vulnerable, low-wage earner have any of their pay equity adjustments taken away from them?

Mr Maves: No. My understanding is that it could not.

Mr Christopherson: So the current law protects low-paid women who have received a pay equity increase, bearing in mind that we're talking about people who earn — well, the Red Cross folks the other day: \$9.15 an hour. That's less than \$18,000 a year. We're talking about very

low-income women. They would have their pay equity adjustments protected under the current law, and you are now, by virtue of this amended section in Bill 136, going to make it possible for an employer, after a sale, merger or amalgamation, to lower their wages, wages that were otherwise protected before you brought in Bill 136. Is that accurate?

Mr Maves: Yes, it is. Mr Hill, if you would.

Mr Hill: You have to distinguish between the current wages and a set of future adjustments that employees are entitled to. What the amendment as done in Bill 136 would do, and the motion doesn't change that, is to free the purchaser to make a new plan which may result in a different set of adjustments, perhaps lower adjustments. Under the current law, even if the purchaser makes a new pay equity plan, it would be bound by whatever adjustments were called for in the seller's plan. It's that obligation that the amendment in Bill 136 would relieve the purchaser of, and the motion doesn't change that.

Mr Christopherson: To the parliamentary assistant: Can you tell those women who are affected how that represents any kind of fairness in labour legislation?

Mr Maves: I'd simply say that it reflects the new reality of that workplace. A pay equity adjustment, if there is a more accurate comparator in the new workplace, can be adjusted, up or down, I believe.

Mr Christopherson: Oh, give me a break: up. You've got a minister who — and you mouth the same words. You talk about "fair" and "balanced." We've alleged and made accusation that this government has, in disproportionate ways, hurt women. I'm now pointing out to you another scenario where low-paid women's wages are protected currently. All our fights with you haven't been about anything new; they've been about maintaining and preserving rights that people already have, rights that can only be taken away by you changing the law. That's what you're doing. I want to know how you can square all the words that you and the minister run around this province saying, about being fair to people, with opening up the wage package of women who earn less than \$18,000 a year. How the hell is that fair to them?

Mr Maves: The amendment doesn't relieve the obligation for pay equity of a successor employer; there's still that obligation there. It just allows them to have a pay equity plan in place which is more appropriate to the new entity.

Mr Christopherson: Listen. I asked you point-blank, could this lead to a woman receiving lower wages as a result of having her pay equity adjustment taken away, and you said yes. So which is it? It's either a technicality that doesn't matter — I hear what you're saying legalistically, and all that is fine and wonderful. I care and my caucus cares about what happens to women who finally got some small piece of justice through a pay equity increase that's protected under law in the existing legislation, and you feel it's okay to take that protection away. I want to know how you square doing that to low-paid women workers and still go around saying you've got fair

and balanced labour legislation and that you care so much about working people.

Mr Maves: My answer really doesn't change at all. There will be a new entity, and the pay equity plan of that new entity should reflect the new conditions within that new entity. The employer is still obligated under the Pay Equity Act, but this allows the plan to now reflect more closely conditions in the new entity.

Mr Christopherson: You still insist on debating this with me at one level. I'm asking you to get down where the people are in the real world. What do you say to women who could now, as a result of your law, be subject to having their pay equity increase gone, when they're already earning wages that are probably a quarter of ours — that that is somehow fair legislation for them? What do you say to those women workers, many of whom, by the way, are supporting families on that wage?

Mr Maves: As I said, there's a new entity being created —

Mr Christopherson: Stop talking like that. Talk to me straight up.

Mr Maves: There are new categories of employees within the new entity. They still have the pay equity obligations to the women in that unit, in the new entity. They still have those obligations, but the obligations might change, up or down, in the new entity. It depends on what's appropriate and what the new comparables might be in the new entity.

Mr Christopherson: I'll end now, because obviously I'm not getting anywhere. You can appreciate — you don't necessarily have to answer this — how a woman would feel if, after her wages have been cut as a result of you taking away her legislatively protected rights, she were to read the Hansard answer you gave and then watch the parliamentary channel and listen to Minister Witmer stand up and say: "We want to be fair to everybody. We care about working people. We want to make sure that everybody gets a fair deal in our legislation."

You can appreciate how they would be sick to their stomach to listen to one thing happening in the House, and then look at their own reality, when in large part we're talking about the working poor. At the same time, you're giving hundreds of thousands of after-tax dollars back to your rich friends. You can appreciate how that fits and how that sits with people who are going to be affected by your legislation. This is disgraceful, disgusting. I don't know how the hell you guys sleep at night.

1710

The Chair: Mr Patten, did you wish to comment on this amendment?

Mr Patten: I don't see the amendment doing anything to enhance what was there. I will still vote against the section, especially in light of the court ruling. Anybody can appreciate that if you have a new entity you need a new plan, but it does nothing to address the issue of whether there is social justice for pay equity; in fact, it takes away. I gather the retroactivity is somewhat mitigated under one part of this, which is one small improvement, but it still does not address the issue of pay equity. I

imagine it will probably still be vulnerable to the court ruling, so we may see this come around again as being challenged. Those are my comments.

Ms Martel: On the same point, I want to ask this question of the parliamentary assistant. I am assuming that if the ministry is taking the time to bring forward an amendment on this section, out of the many amendments they're bringing forward which basically gut two other schedules in this bill, the ministry must have some idea how this is going to work in workplaces where mergers and amalgamations are taking place.

I would like to ask the parliamentary assistant, can you tell me in how many and which workplaces women can expect that the obligation of the employer is going to increase and they are somehow going to see an increase in their pay equity? How many workplaces and which ones?

Mr Maves: I don't have an estimate on that and I don't think staff does, either. I'll ask Mr Hill if he can respond to that, but I don't think they do.

Mr Hill: No, I would have no idea.

Ms Martel: I suspect that's because there aren't any workplaces where you're going to see women's wages increase after this happens. That's what we're dealing with. You may have a technical amendment which says, "We're going to allow the employer now to post a new pay equity plan." The reality for women working in those workplaces is that they will not get from that any more pay equity or an increase. The whole purpose of this bill, from the obligations you're placing on arbitrators, is to drive down wages. Everyone recognizes that. That's why this is part of the bill, that arbitrators have to take into account the ability of the employer to pay.

Now, by the change you're making in this section, you're going to let that employer cry poor and, in posting a new plan, they'll see even less, if any at all, pay equity increase actually being provided. Isn't that what's really going on here? Isn't that what this amendment is all about?

Mr Maves: I don't think it's about crying poor. I think it depends on the comparable. It is possible, for instance, in the case of municipalities, that if some smaller municipalities are merging with larger ones, it might end up that the comparable is indeed higher. We haven't conducted any studies on that other than — I believe the Jean Read study said most of pay equity within the broader public sector had reached compliance. There may be new comparables in these new units. It could be higher and the possibility is there that it could be lower. It depends on the comparable, though, not a municipality crying poor.

Ms Martel: It also depends on the ability of the employer to pay. The government has made sure that becomes part of the test that arbitrators have to apply for some of these broader public sector workers. If you're talking about mergings of nursing home assistants, for example, or, if any happen, amalgamations of child care centres, you're going to be comparing the poor to the poor and no one is going to be better off under this scenario.

Our argument is that what you have set up here is a mechanism for any number of women, perhaps thousands

and thousands of women, after a merger to see no pay equity increase at all that they would have seen were it not for the changes you're trying to make. That's what's happening here.

Mr Maves: Pay equity is unaffected by the ability-to-pay criterion in the bill.

Ms Martel: If you've got a new employer that's a municipality?

Mr Maves: Pay equity provisions are unaffected by those provisions. That's my understanding.

Ms Martel: If you have municipal employees who are affected by a merger?

Mr Hill: The pay equity obligation is not subject to an ability to pay. If you're suggesting that as a result of wage increases that are awarded, and to the extent that the ability-to-pay criterion would result in a lower wage increase to, say, male-dominated job groups than would otherwise have been the case, that may affect what the pay equity job rate for the female-dominated classes is. But the pay equity obligation is not itself subject to an ability-to-pay restriction.

Ms Martel: Why is the government moving forward on changes to pay equity, given the court ruling, which clearly stated that this government violated the Charter of Rights when it came to women, especially poor women? The court ruling was very clear with respect to pay equity. Why would the government now be making any further changes without having provided the assembly or the public with some of kind of ruling in response to the court challenge?

Mr Maves: This pay equity clause speaks to the principle of the bill, which is to facilitate collective bargaining following restructuring in the public sector. This is a pay equity component that might come into place upon the restructuring of the public sector, and that's why it's in the bill.

Ms Martel: But some of your current changes on pay equity have already been shown to be violating the charter. What makes you think that if this section is appealed you won't find yourself in the same boat?

Mr Maves: I'm not really a lawyer and I can't give the legal opinion on that. I don't have the legal opinion of the lawyers on that. Mr Hill might be able to speak to that.

Mr Hill: It is a difficult question to answer, to say exactly how far the implications of Mr Justice O'Leary's ruling extend. Certainly if one reads the decision in a certain way and assumes it's correct, there are provisions in the amendments that would have been made by the first reading version of Bill 136 that are vulnerable as a result of that ruling.

The particular provision we're talking about here, which is in subsection 4(3) of the bill, is one that in my view is not vulnerable to challenge. I say that because pay equity job rates are not determined on the basis of science; it's an art. There isn't anything that says a pay equity job plan that uses a certain methodology couldn't arrive at one particular pay equity job rate, and a different plan, using another equally legitimate methodology, might arrive at a different pay equity job rate.

I don't think there is anything magic about any particular rate, and I don't think that a provision that allows an employer who is purchasing a business to use a different plan, with different methodology, which ends up indicating a different pay equity job rate is necessarily in violation of the charter, even under a fairly broad interpretation of Mr Justice O'Leary's ruling.

Obviously, there may be further cases on this. I don't think anybody can say at this point how far it goes, but I certainly think this provision is defensible in charter terms. I'm not speaking to policy — that's not my job — but in terms of the Charter of Rights, I think this is defensible.

Mr Hoy: Earlier this afternoon, as we were discussing the amendments, we put forth the argument that government amendments were making substantial change to Bill 136, that the complete package of amendments was changing the bill drastically and that a new bill would be required. In your ruling that allowed the amendments to be in order, Chair, you said you would not look at the amendments as a total package and that you would rule on them individually. As our contention is that government motions substantially change Bill 136, since this is the first one we have arrived at today, I ask you to rule whether this motion substantially changes Bill 136.

1720

The Chair: I am of the opinion this is in order. The pay equity amendments were in the bill as first proposed, and I believe it is in order.

Mr Christopherson: First, further comments to pick up on where my colleague from Sudbury East left off, and then I have a very specific question.

I have a copy of the presentation made to this committee — of course not directly relating to this amendment, because they hadn't see it when they came in — from the Equal Pay Coalition. Mary Cornish was the main speaker. In appendix A of their presentation they outlined very clearly what the courts said. I think it's important that it be part of the record.

"The court ruled that the Tories' schedule J in the Savings and Restructuring Act, 1996" — that's Bill 26, by the way, the omnibus bully bill — "'discriminates against proxy sector women by denying them the opportunity of quantifying and correcting the systemic gender-based wage inequity from which they suffer, a benefit the act grants to other women working in the broader public sector.' The judge further went on to say, 'I declare that schedule J of the Savings and Restructuring Act, 1996, amending the Pay Equity Act, is unconstitutional and of no force and effect.'"

I noted that the lawyer for the ministry believes that this is defensible. Having been the Solicitor General, I learned how to do my own interpretation of certain code words lawyers use. "Defensible" is an honourable and accurate word, but it does not give any meaning to the weight of how effective it might be. It merely means you can mount an argument, that you aren't standing there stuttering with nothing to say.

The government's been there before. The submission of the Pay Equity Coalition goes on to say, "The court found that the government argument that the proxy method was a flawed tool to identify gender-based wage inequity was false. Instead, the court accepted the evidence of the union's renowned expert witness in pay equity, Dr Pat Armstrong, and found that 'the proxy method was and is an appropriate pay equity tool, in keeping with the intent of the Pay Equity Act, to relieve women, including those working in female-segregated workplaces in the broader public sector, from systemic gender-based wage discrimination.'"

Yes, your defence of Bill 26 was there, it was defensible, but the court ruled that defence was flawed. With great respect, just because a lawyer says, "Yes, this is defensible," it does not mean you've got the best case, the winning case or even a good case. It merely means you have a case. The last time you had that, the court said your case was false.

The report goes on to say: "The court held that the Tories passed schedule J 'essentially for fiscal reasons,' as it was a program with substantially expanding costs. However, the court concluded that the government's reasons for enacting schedule J did not warrant overriding a constitutionally protected right of women in the public sector to equality under section 15 of the charter."

I realize that the issue of the detail is not directly applicable, but I think to say that the government has a defensible argument does not mean anything beyond that they could go into a court of law and give a defence. I think it's very germane to the point that the last time the government walked in and mounted an exercise in attacking a woman's constitutional rights under the pay equity legislation, the court shot it down in flames.

In that context, to have the parliamentary assistant, on behalf of the government, admit, "Yes, under the changes we've made, women are losing some constitutional protection, and yes, there are some women who may have their wages go down" — he admitted that their wages may be decreased. I'm taking from that to mean that there may indeed be another constitutional challenge, and that women once again have to use scarce money to fight their own government to protect their constitutional rights under the charter. And it's within a couple of months of when it happened the last time.

My specific question to the parliamentary assistant is to help me determine how this amendment affects the original section in Bill 136. What exactly is the law now? What would Bill 136 have done as it was originally printed and passed at second reading? What is the implication of the amendment before us? There are three different things to explain. I'd appreciate hearing the difference between the three.

Mr Maves: The amendment —

Mr Christopherson: No, start with what the current law is, please.

Mr Froese: He can start with whatever he wants.

Mr Christopherson: No, he wanted to talk about the amendment. I want to know what the law is now, what

was in the original Bill 136, and then how this changes that.

Mr Hill: The law as it now stands, on the sale of a business, allows the purchaser to make a new pay equity plan. But when the purchaser does that, it is still bound by any adjustments called for in the seller's plan, if those were higher than what would be indicated by the purchaser's new plan.

Mr Christopherson: Can I hold you right there, just to get a further clarification? You're saying that as the law stands now, the buyer has an obligation to take with them the pay equity increases that were outlined in the seller's plan. If I can use an analogy, it's just like in the private sector — OPSEU doesn't have that right any more, thanks to Bill 7 — if there's a business sale, the buyer takes the collective agreement with them. Whether that makes them competitive or not is not the issue. They have to factor in that the existing collective agreement, with all the wages and benefits spelled out, goes with the purchase.

If I understand you correctly, under the law as it now stands, that pay equity plan goes with the business or the service, and the buyer, knowing that ahead of time, has to honour the pay equity increases contained therein. Am I accurate?

Mr Hill: That's right.

Mr Christopherson: That's correct? Thank you. Please continue.

The Chair: Any further discussion?

Mr Christopherson: Whoa. That's only the first part. I've got three parts here.

The Chair: Excuse me; sorry.

1730

Mr Hill: What is now in Bill 136 changes the law by saying that in that situation, in a sale situation where the purchaser takes over and makes a new plan, it will no longer be required to abide by the seller's adjustments where they were higher. It can do whatever adjustments were indicated by the purchaser's new plan instead.

Mr Christopherson: Which, as a result of earlier questions, means that some women could conceivably receive a decrease as a result of a sale or a merger.

Mr Hill: You have to distinguish between current wages and adjustments that are indicated by a pay equity plan. Whether or not wages can be lowered is a very debatable issue within pay equity law. There is a school of thought, which I think has a lot of credibility, which suggests that wages can't be lowered. But the act is not specific in that; it never has been.

With respect to adjustments, how current wages are going to be adjusted in the future in order to achieve pay equity, as a result of the amendment which relieves the purchaser of having to abide by the adjustments indicated in the seller's plan it may be the case that when the purchaser does a plan, since they no longer have to abide by the seller's adjustments, the increases the employee would get would be smaller than they otherwise would be, or perhaps — I don't know, but perhaps — there would be no increases at all. But that's different from saying wages would be lowered.

Mr Christopherson: What you're suggesting to me — and if I slip into the political arena, I mean it for the parliamentary assistant, not you. What I'm hearing you say to women is: "The good news is that at best you might be forfeiting future raises that you otherwise would have gotten, but hey, there's a chance you might be able to keep some of the pennies you've gotten already."

Mr Hill: I find it difficult to answer your question expressed in those terms.

Mr Christopherson: That's fine. That's why I suggested it may have to be the parliamentary assistant. But you're clearly saying that increases they would have been entitled to under the seller's posted plan were constitutionally protected and they were guaranteed to get those increases.

Mr Hill: "Constitutionally protected" is, in my view, a very debatable —

Mr Christopherson: Legally protected, then, protected by law, and now they're going to lose that. You're saying that very easily, a new plan by the buyer could have no or lower increases than the seller had, and it's still a possibility that yes indeed, their wages may go down. You're not prepared to offer up a legal opinion that says they can't.

Mr Hill: That's right. Whether wages could actually go down is not an issue that's addressed by this amendment either in its current form or in the motion. That's simply something that the Pay Equity Act does not explicitly address.

Mr Christopherson: The only thing I lost was the distinction between what this amendment number 5 does specifically.

Mr Hill: The third part, which I was coming to. The change that's made by the motion, if you look at it, would add clause 14(2)(a) of the Pay Equity Act. Basically, what that clause does is to allow a change in the gender-neutral comparison system that is the basis for the pay equity comparisons to be negotiated.

Under the current legislation, the purchaser, although free to make a new plan, is bound by whatever gender-neutral comparison system was being used by the seller in its plan. The motion would allow the purchaser to adopt a different gender-neutral comparison system in making a new plan.

Mr Christopherson: Just as an aside to help me understand, were you here when Red Cross presented on Friday?

Mr Hill: No, I was not.

Mr Christopherson: Are you aware of their presentation? Have you had a chance to read it at all?

Mr Hill: I don't know enough about it to comment on their presentation.

Mr Christopherson: Can anybody here comment on that presentation? Parliamentary Assistant, you took as keen an interest as I did in their presentation. Can you tell me how all of this will affect their problem?

Mr Maves: My understanding is that it doesn't affect the Red Cross situation.

Mr Christopherson: But does it help them?

Mr Maves: I don't think it affects it one way or the other.

Mr Christopherson: Of course, you didn't have time, because that was Friday and today's Monday, so there may not have been time to listen to what they said. You remember what they said, don't you?

Mr Maves: Yes. As you stated at the time, their situation is a very difficult one to follow, and the Pay Equity Act itself is a very — if you're not an expert on the act, it's tough to talk about a section and so on and so forth. Their situation is a complex one, and my understanding is that this does not affect their situation one way or the other.

Mr Christopherson: So really Red Cross might as well not have bothered making a presentation because you haven't done anything about what they said anyway. They came in and expressed serious concern and you're not offering anything to them at all.

Mr Maves: I don't see an amendment from either the Liberal Party or the NDP either. I think part of the difficulty is in understanding their situation and probably finding out the best way to deal with their situation.

Mr Christopherson: But that is why they came in. You've been telling us all week: "Yes, we're listening. We care what people have to say." Red Cross rolled in here, talked about a major concern they had affecting the pay equity stuff, and now you're telling me that your amendment to the pay equity portion of Bill 136 does nothing to solve their problem. It doesn't address it in any way, shape or form, and we're supposed to be happy because it doesn't make their problem worse.

Mr Maves: It's my understanding that —

Mr Christopherson: Why did they bother coming?

Mr Maves: You might ask them that. They felt they had to do that.

Mr Christopherson: I might ask them that?

Mr Maves: They felt they had something to add and they thought perhaps their situation could be addressed by coming to the public hearings and putting forward what they put forward.

Ms Martel: They sure were wrong, weren't they?

Mr Maves: At this point in time we weren't willing to accept that amendment. I think the Ministry of Health is aware of the Canadian Red Cross difficulties and they may decide to do something; I don't know. But at this point in time, this amendment doesn't affect the Canadian Red Cross.

Mr Christopherson: Two things on this one and I'll move back to the main issue: Let me tell you, first of all, I was clear on one thing they said, that they needed legislative relief of some sort. I don't know whether I necessarily agree with what they were suggesting, because it was so complex. But given the fact none of us have had any time to deal with anything, let alone the micro but important issue of Canadian Red Cross, I'm not surprised that none of us is 100% sure and I'm not surprised that you haven't done anything about it in your legislation. But I can tell you that they're going to be very disappointed when they

read the Hansard and realize that they might as well not have bothered coming in on Friday.

Mr Maves: My understanding of their proposed amendment was to relieve long-term-care employers of pay equity obligations, to that effect, in the homemaker part of long-term care.

Mr Christopherson: No. Let's be clear. We can debate this till the cows come home, but I remember very clearly saying at the end, because we only had a few minutes with them, that this stuff was really complex and I don't pretend to be an expert on pay equity legislation, but I wanted to hear from them as a humanitarian organization that their goal was not to see anybody who's had a pay equity increase adjusted downward, but that they wanted some relief so that their competitors, now that you're putting more and more of this stuff out into the competitive arena, would have to meet the same minimum wages as they do.

They answered very clearly, yes, they weren't looking to take away any money. They wanted to make sure they remained competitive. Their goal was to make sure that those who might compete with contracts they're bidding on are at the same level as they are. As a humanitarian organization, they were very clear, in my opinion, that it was their preference that other women's wages be brought up, not that their employees' be brought down. Let's remember we're talking about people who earn \$9.15 an hour.

Mr Maves: I've just spoken with Mr Hill, but I have the Canadian Red Cross brief. Their proposed wording regarding Bill 136, within the section dealing with the Pay Equity Act, for homemakers' services, says:

"(1.2) An individual who, on or after the effective date, provides homemaker services as defined in section 2 of the Long-Term Care Act is not an employee for the purposes of this act."

The effect of that, in my understanding, is that it would relieve those employers of the pay equity obligation. That was not considered or brought forward by the government as a way to deal with their problem. I think the Ministry of Health will continue to talk to them about methodology to deal with their problem in a more appropriate manner.

1740

Mr Christopherson: So you're taking responsibility for fixing their problem and you're suggesting that they stated in their brief that they were prepared to see wages go down. That may be, because I don't have the Hansard in front of me, but I remember very clearly that at the end, when I asked them point-blank, "Is that what you're trying to do, or is it your preference that everybody else be raised to the same level?" they answered yes. I stand to be corrected, but that certainly is my recollection.

Mr Patten: My recollection is that the Canadian Red Cross voluntarily took it upon themselves to establish a pay equity program when they were not obligated. Once they had negotiations with the legal department for the Pay Equity Commission or whatever, they then were bound by this.

However, they were saying they are no longer competitive and they have a funding problem, living up to what they have made a commitment to, and they can't get out of their commitment. So they said, "If we're going to be in a competitive position, then across the board should also be bound by the same pay equity provisions." That's my understanding.

Mr Christopherson: The discrepancy was because there were different formulas being applied and they were legislatively locked into certain formulas and certain results — again, very complex, but certainly a very legitimate issue and one that I'm very disappointed this government didn't see fit to try and do something about. But you have taken ownership of it by saying that the Ministry of Health is looking at it, and I'm sure that the Red Cross, when they get a copy of these Hansards, which I can assure you they will, will be pleased to see that the government has embraced this issue and will work to finding a solution that doesn't attack any women's rights, particularly as they pertain to pay equity increases they may have received.

Before I leave this, I want to come back again to the final piece. I'm still not clear on what this last one does to the original amendment, if you can help me.

Mr Hill: It might help to look at the motion. If you compare it with the wording of what is in the bill, you will see that what is new about the motion is that it adds a reference to clause 14(2)(a) of the Pay Equity Act.

Mr Christopherson: Which is?

Mr Hill: The addition of that clause enables the purchaser of a business to use a different gender-neutral comparison system than the seller used when it prepared its pay equity plan.

Mr Christopherson: How did that differentiate from 136 originally and existing legislation?

Mr Hill: Under 136 there hadn't been anything that addressed the gender-neutral comparison system, and the provisions of the existing Pay Equity Act that were incorporated by reference into the amendment made by Bill 136 did not include this clause 14(2)(a), and that's the clause that would enable the purchaser to use a different gender-neutral comparison system.

Mr Christopherson: So you're just sharpening the knife with the amendment. I say that to the parliamentary assistant. You had a knife to go after pay equity increases, and the amendment just sharpens it to make sure you can go after it.

You personally, Parliamentary Assistant, are comfortably defending a clause in your law that takes away lawfully protected wages of low-income women. Is that correct?

Mr Maves: I'm supporting the amendment and the change that Bill 136 brings forward in allowing a new entity to develop a new pay equity plan, which may —

Mr Christopherson: Even if it leads to someone's pay being cut?

Mr Maves: If there is a comparable which is a more appropriate comparable for that workplace, there is still

the pay equity obligation there, but it's a more appropriate comparable to be used in the new workplace.

Mr Christopherson: Do you think it's fairer? That's a word you guys like so much. Do you think what you're doing is fairer than what is already there?

Mr Maves: If the Pay Equity Act is a fair act and it allows comparables, then this is no different.

Mr Christopherson: Is it fairer to a woman whose wages might go down? Do you think it would be seen to be fairer to them, when before you rammed through 136 they had lawful protection?

Mr Maves: I think it is appropriate in a case of a new entity, if there is a new, more accurate comparable for the purposes of the Pay Equity Act, that it be used.

Mr Christopherson: So if somebody is earning \$16,000, \$17,000 or \$18,000 a year and couldn't have that touched under an existing law, but because of your changes now could lose it and have their pay go down, you're okay with that? You think that's fair?

Mr Maves: If under the Pay Equity Act, the comparable is a more accurate comparable —

Mr Christopherson: What do you mean by "accurate"? Accurate what? Just because it's lower?

Ms Martel: If they're going to get less, that's okay?

Mr Christopherson: Don't you understand? This is not just some academic exercise, Bart.

Mr Maves: I guess then we get into debating all the different scenarios of deciding comparables in the Pay Equity Act.

Mr Christopherson: But you guys already tried that kind of phoney argument under your Bill 26 attack on pay equity, and it was found unconstitutional.

The Chair: We have a question from Mr Hardeman.

Mr Hardeman: It's to the ministry legal beagle, I guess. I'm getting somewhat confused about the pay equity and the lack of pay equity or what this amendment will do. I just want to put a case and you can tell me if I'm right, and make sure you tell me if I'm wrong; I wouldn't want to go through this and then find out — if we're talking about a merger of employers and a merger of pay equity, is it reasonable to assume that both the new employer and the employer where the workers would be coming from have a pay equity plan or both have comparators?

Mr Hill: Yes, that would quite often be the case.

Mr Hardeman: If the new employer presently does not have comparators, does not have a pay equity plan or any employees to compare to, when the employees come over to that new employer who doesn't have comparators, would it be reasonable to assume that the new pay equity plan would have to use similar comparators to what the old plan did because he doesn't have any new comparators to compare to?

Mr Hill: If it's a new entity, it didn't have employees before. If it does a new plan, the comparison will be across the entire establishment. If A and B amalgamate to make C, there will be employees from stream A and there will be employees from stream B coming, and the comparison would go across the entire establishment.

Mr Hardeman: But it's reasonable — or maybe it's not; maybe it's unreasonable — to assume that if B presently has a pay equity plan that has interior or in-the-organization comparators, that's who A would be compared to if you put the two together?

Mr Hill: You would have to look at the whole establishment. If A and B are coming together, there's a new establishment consisting of C, all those employees coming together, so the comparison would be —

Mr Hardeman: I'm still confused. If A presently doesn't have a comparator so they have had to use outside comparators to get their pay level and B has no interior comparators, then when A and B become C, is it reasonable to assume that neither one has interior comparators?

Mr Hill: Now I'm getting a little confused. You're saying that A didn't have any employees, that it was just —

Mr Hardeman: To compare to, so they compared outside the organization.

Mr Hill: When you're talking about comparing outside the organization, that's what the proxy provisions of the act do, the provisions that were repealed by schedule J in Bill 26, which repeal Mr Justice O'Leary has found unconstitutional. Are we talking about the proxy?

1750

Mr Hardeman: I was referring to any form of comparison they've used.

I just want to finish off with — now that we've got A and B put together and we have the employer creating a new pay equity plan under the present pay equity legislation, is there any reason to assume that all the people who would be covered by that plan would be covered any less fairly than they presently are?

Mr Hill: I've said before — and I'm not political so I don't want to get into politics — that I think pay equity is not a science. You can do it with one plan, with one methodology, and it might point to a certain pay equity job rate, in other words, the rate at which pay equity is finally achieved; and somebody else might do a different plan using the same employees but use a different methodology, equally legitimate, and come up with a different pay equity job rate. It's not a science, so you can't say that one is necessarily wrong and the other's necessarily right. There are restrictions on what you can do in pay equity and there are methodologies that are good and bad, but there's no reason why two methodologies, even though they end up with different rates, couldn't both be quite legitimate and quite legal.

Mr Hardeman: Finally, then, if we have A and B put together to have C as the employer, with this amendment to 136, is it reasonable to say that every employee of C is covered by the pay equity legislation as it presently exists? It would be a new plan created but they would all be covered by pay equity.

Mr Hill: That's right.

The Chair: Further discussion?

Mr Christopherson: Yes, I want to go back to A, B, C. I'm fascinated by A, B, C. Any time we can get this government to go back to the ABCs, we're doing real

good. There are a number of different scenarios. C would equal the new entity. If entity A has a plan, you said it is possible they could merge with B, who may or may not have a plan, and likewise A could or could not have a plan.

Mr Hill: The provisions of the Pay Equity Act require most employers to make plans.

Mr Christopherson: But we know that they all didn't and the government has relieved them of that responsibility, or tried to. There are some employers that don't meet the requirements of pay equity in terms of having a plan posted and in place, correct?

Mr Hill: That there are employers who may be violating the law?

Mr Christopherson: Right.

Mr Hill: I don't know personally of any, but obviously there could be, yes.

Mr Christopherson: Obviously there were because the government relieved them of their responsibility and their requirement to meet the deadlines. Anyway, for the point of argument, for discussing this, A could or could not have a plan and B could or could not have a plan.

Mr Hill: For the purposes of argument.

Mr Christopherson: We'll do the first one, the most likely as you see it, which would be that both have a plan. You've said that one may have calculated based on one formula, the other calculating on a different formula. Let's just go back a bit. Why would they end up doing different formulas?

Ms Martel: Because one gets them to less money than the other. One allows them to pay less than the other, that's why.

Mr Froese: That's your legislation.

The Chair: Order, please. Mr Hill has the floor.

Mr Hill: I'm not an expert on calculation of pay rates so I can't speak to it on a technical level. I do know, from talking to our policy people in the ministry, that different methodologies may arrive at different rates, that they both may be legitimate; both of them may be quite acceptable under the law.

Mr Christopherson: Is there one that tends to give a higher rate than another?

Mr Hill: I suspect that may be the case, but I don't really know.

Mr Christopherson: Isn't that why proxy was brought in?

Mr Hill: When I'm talking about methodology, I'm talking about how you do your comparisons, what sort of criteria you use, how you evaluate factors like skill, responsibility, effort, that sort of thing. I'm not talking about proxy as opposed to the job-to-job basis of comparison or the proportional value basis of comparison.

Mr Christopherson: But the law provides for the different formulas. With respect, we're talking about an amendment to the Pay Equity Act which could have the possible effect of lowering some workers' wages in this province. Perhaps we should ask, during the dinner break, to have one of the legal people from that department come down who is more qualified in that area.

Mr Hill: My colleague Katherine Hewson, who is a manager in our policy division, has just come in. She may be able to speak to some of these issues more knowledgeably than I can, so I'm going to turn it over to Katherine.

Ms Katherine Hewson: I didn't hear your first question, so perhaps you could just repeat your question.

Mr Christopherson: Okay, we'll start over. The overall question —

Interjections.

The Chair: Colleagues, Mr Christopherson has the floor. He's about to briefly outline his question for our guest.

Mr Christopherson: I am attempting to find out what the implications are for working women who may have received or are entitled to receive pay equity adjustments under existing law, where those rights are protected; what implications Bill 136, as originally passed at second reading and as amended here today, would have on those rights and therefore on those women. That's my ultimate goal in what I'm doing.

Along the way, in response to questions from Mr Hardeman, Mr Hill began to talk about mergers and designating A and B and then you'd end up with C. I wanted to take that discussion a little further because I found it helpful, but I still had some questions. I was trying to use some scenarios and how they would play out under existing legislation, under the existing Bill 136, and then ultimately this amendment, so I can understand fully what it is we are voting on here today, because this is the first chance I've had to look at it.

Company or entity A more than likely has a plan, but I was pointing out that it's not necessarily so because there were a lot of entities that were behind in their postings. I feel more strongly than Mr Hill that one of the two may not have a plan, but we'll deal with that as a second scenario. In the first scenario, entity A has a plan and entity B has a plan. They're different, because they've been calculated differently. The first thing I was trying to determine at the point your name was mentioned was, why would we have two different calculations to start with?

Ms Hewson: You'd have two different calculations for two main reasons. One of the reasons is because in a pay equity plan it's necessary to compare female job classes to male job classes in the organization, so it will depend on which male job classes were used for the comparator to the female job classes. You could in your company A have a female job class of, let's say, secretary that was compared to a driver; I'm just making these up. You could in company B have a secretary job class that was compared to accounting clerks. So the adjustments will be different in both those situations. That's one reason they'll be different. Another reason could be that they may have used different gender-neutral comparison systems, and that is basically the system that allows you to compare value of the job to the salary or wages paid for that job. Those are two main reasons that they may have different comparators, different wage rates for even the same job.

Mr Christopherson: Let's, for the sake of argument —

The Chair: Mr Christopherson, I'm sorry to interrupt but it is 6 o'clock. I think this is an appropriate time to recess. Colleagues, we'll reconvene at 7 o'clock and we can resume the questioning then. I hope you'll return at that time.

Ms Hewson: Certainly.

The Chair: Thank you. We are recessed until 7.

The committee recessed from 1759 to 1904.

The Chair: Colleagues, the standing committee on resources development looking at clause-by-clause consideration of Bill 136 is called to order. We were in the midst of discussing the government amendment moved by Mr Maves on page 5. Mr Christopherson, I believe you had the floor. Did you wish to continue?

Mr Christopherson: Yes, thank you. I believe we were doing our ABCs and we had left off with the scenario where, under entity A, there's an existing pay equity plan in place that, just to pick a figure — since that's what Red Cross said and it sticks in my mind, say \$9.15 an hour. A huge amount of money, eh? Let's say entity B is only making, again to make it simple, \$8.15. They have a plan also but clearly it's not as good a one. Then C will be whatever happens after A and B are merged and whatever applicable laws are then applied.

Under the existing, pre-136 legislation, the \$9.15 as a pay-equity-adjusted wage is protected and I would think, by extension, so is the plan. The plan would have been protected also?

Ms Hewson: What the act says is that the pay equity adjustment is protected.

Mr Christopherson: Right, and therefore, by extension, the plan also would have been protected. Is that correct, or just the existing wage?

Ms Hewson: I'm not altogether sure that the plan would be protected. I don't know what that would actually mean, but certainly the adjustment is protected.

Mr Christopherson: Okay, so it may or may not include the plan, but definitely the adjustment itself is protected by law.

Ms Hewson: Yes.

Mr Christopherson: Whether it's constitutionally protected would depend on whether there was a challenge and whether it was upheld or not, but under law it's protected.

Ms Hewson: Yes. Under the Pay Equity Act, previous to Bill 136, that adjustment could not be changed.

Mr Christopherson: Under the existing legislation, could that be adjusted upwards for whatever reason?

Ms Hewson: Yes, it could.

Mr Christopherson: But it couldn't be adjusted downwards.

Ms Hewson: That's correct.

Mr Christopherson: Now, under the new law, Bill 136, as amended, it could go up, but it could have gone up under the original law. Obviously that's not — you don't have to answer this, but that says to me that's not why they're doing this. If it could go up under the existing law,

you don't need to change the law to let it increase. However, after Bill 136 becomes the law of the land, that lawful protection of that \$9.15 is now in doubt and it is possible it could be reduced.

Ms Hewson: The way the Pay Equity Act worked previous to Bill 136 and the way it will work after Bill 136 is that it provides a process for determining a pay equity adjustment. Upon a sale of a business, and let's say it's a unionized environment, the employer and the bargaining agent must negotiate a pay equity plan that provides for adjustments. When there's a sale of a business, if the plan that existed previously is no longer appropriate, the parties can bargain a new pay equity plan. That provision remains and they will need to find the appropriate comparator in the new organization. Previous to Bill 136, the only thing that could happen would be that the new comparator may raise the pay equity adjustment. Now there is flexibility to find a comparator that is appropriate, and that can be higher, lower, the same.

Mr Christopherson: But under the existing law, before Bill 136, there were no conditions on which that wage could be lowered.

Ms Hewson: That's correct.

Mr Christopherson: And under Bill 136 it could be.

Ms Hewson: That is also correct. If there is a pay equity plan that is negotiated and there is an appropriate —

Mr Christopherson: Negotiated or not, if there's no union there may not be so much negotiation.

Ms Hewson: In a non-unionized environment it is the employer who does it, with the ability of the employees to file objections to the plan.

Mr Christopherson: True, but there's a whole world of difference between the protection provided those who can file objections under the Pay Equity Act and those who have a collective agreement to protect them — light years of difference. Anyway, you don't have to respond to that.

All I'm getting to is that when we reach C, which is the outcome of the sale or merger or amalgamation, we now have a law that takes away the protection in the existing law for that \$9.15 under any condition. I realize there are lots of different scenarios and different things have to happen and different comparators, but the bottom line is, under existing law, when you got to C, the new entity, that \$9.15 couldn't go down, and under the Tory law it can. Or am I wrong?

Ms Hewson: It could go down after Bill 136 if these amendments are passed, yes.

Mr Christopherson: Right. Thank you. I'm done.

The Chair: Mr Hardeman.

Mr Hardeman: First of all, I want to get it clear on a plan that's in place. In the unionized environment where both parties have to negotiate, is it right that the negotiated settlement of a pay equity plan is not necessarily pay equity; that in fact after you've gone through the process, the bargaining agent can settle for and both parties can agree to adjustments that are not what came out in pay equity?

I stand to be corrected but it seemed to me that's what happened at home when we were doing pay equity in the home for the aged, that once the differentiation between the job classifications was agreed, the union and management together agreed to how much adjustment each category should get and at what speed that adjustment should be made. So the end result of the package was not necessarily pay equity. Is that true?

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Ms Hewson: It's hard to say what is pay equity if you're looking at an outcome, because the Pay Equity Act provides for processes for agreeing or determining in a pay equity plan an appropriate adjustment to deal with wage discrimination. The way the Pay Equity Act works in a unionized environment is that much is left to the union and the employer to work out together. There are some requirements. For example, the minimum requirement the employer must pay every year is 1% of its previous year's payroll. But subject to some of those requirements, the union and the employer have a fair amount of latitude to agree on; for example, a comparison system that they both agree on to evaluate the job classes. There's a fair amount that's left to them.

Mr Hardeman: The other question, going back again to how one achieves pay equity, of course the principle of pay equity was that there were a lot of female-dominated workplaces that were not paying what they should to the female as compared to the male employees. The main thrust of the bill was to make sure that an employer was not discriminating based on gender, and my understanding was that the female job classes were compared to the first lower-paying male job in that workplace. If that's the approach one uses prior to an amalgamation and you put two workforces together, under the present structure, before we get to Bill 136, if you have to stay with the plan of both workplaces, would you then not have a very inequitable situation where one female employee could be getting paid so much an hour more than another female employee doing exactly the same work?

Ms Hewson: Yes, exactly. You could end up with that very easily. You would have quite inequitable pay structures in your new organization in some cases, because you would carry over the comparisons to jobs that may no longer even exist in the new organization, for example. The female job classes may be paid quite different amounts, depending on the comparators that existed in the pre-existing employer.

Mr Hardeman: Going back to our ABCs, am I right to assume that if C had existed — first of all, A is the first employer, B is the other employer and C is the amalgamated — when the plan was being prepared for both workforces, if it had already been amalgamated at the time of pay equity, would the results of that have been a plan similar to one that would come out of this process that we're putting together in Bill 136?

Ms Hewson: I would expect that it would be very similar because the amendments in Bill 136 give an opportunity to use the Pay Equity Act to develop a plan that is appropriate in that structure, with comparators that

actually exist in that structure. So I would think it would be very similar to what it would have been if the original pay equity plan had been developed just for C.

Mr Hardeman: From my perspective — and I think it was questioned earlier about whether we considered what's happening with the amendment to Bill 136 as a fair and equitable way of dealing with pay equity — it's reasonable to say that had this restructuring taken place the year before the pay equity law had come into place, this is exactly what would have happened. So this is in fact pay equity according to the pay equity law that was put in by the former government.

Ms Hewson: You could certainly say they're in a very similar position, as if pay equity were just being applied to it for the first time.

The Chair: Further questions or comments on this motion? Seeing none then, I shall put the question. To refresh everyone's memory, this is a government motion found on page 5 of our packet. All those in favour of this amendment? Those opposed?

Mr Christopherson: Recorded vote.

The Chair: A bit too late, sorry. It has to be asked before I put it. This amendment carries.

Our next amendment is also a government amendment, page 6.

Mr Maves: I move that subsections 4(5) and (6) of the bill be struck out.

The Chair: Would you like to comment on this, please.

Mr Maves: Yes. These sections limited the retroactivity of the pay equity plan on an employer in the BPS. We're removing that exemption. As of January 1, 1998, although there's compliance pretty much throughout the BPS, if an employer hasn't complied yet, then this says that pay equity is retroactive back to 1988, when the act came into effect.

The Chair: Comments or questions? Seeing none, I put the question. Shall this amendment carry? All those in favour? All those opposed? This amendment carries.

Any comments or questions on section 4? No? I then put the question. Shall this section, as amended, carry? All those in favour? Opposed? The section carries.

Section 5: Any comments or questions on section 5?

Mr Christopherson: Yes. Section 5 states:

"The following are repealed:

"1. Employment Standards Amendment Act (Employee Wage Protection Program), 1991, sections 5 and 17.

"2. Labour Relations and Employment Statute Law Amendment Act, 1995, sections 76 to 79."

This of course is the evil piece of business that eliminates the employee wage protection plan. What I want to know, first of all, from the parliamentary assistant is, in his words, exactly what does this clause in Bill 136 do to the employee wage protection program?

Mr Maves: This eliminates the employee wage protection program. Paragraph 5.2 eliminates changes that were made to that program in Bill 7. If the program is eliminated, obviously the changes to the program that were made in the previous bill are eliminated.

Mr Christopherson: Right. And would you kindly explain for us all what changes were made in that paragraph 2 that's referred to there? That would've been the changes under Bill 7, correct?

Mr Maves: That's correct. Under Bill 7, an employee wage protection plan compensated for up to \$5,000 in lost wages, vacation pay, severance and termination pay. Bill 7 said the employee wage protection plan would compensate only for wages and vacation pay up to a maximum of \$2,000.

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Mr Christopherson: I believe it also eliminated the right to severance and termination. Did you say that?

Mr Maves: That's what I said, yes.

Mr Christopherson: Did you say that also? Okay, sorry. It limited wages and vacation pay to \$2,000 from \$5,000 and eliminated severance and termination, correct?

Mr Maves: Correct.

Mr Christopherson: Correct. What was the justification for eliminating severance and termination and reducing wage claims from \$5,000 to \$2,000?

Mr Maves: The desire now is that we're trying to eliminate the taxpayers compensating for employers who haven't made these payments to their employees. We're trying to get them where we think they rightfully belong, under the Bankruptcy and Insolvency Act. So we reduced initially the government's liabilities in Bill 7 under the EWPP and now we're reducing them further.

Mr Christopherson: We'll come back to the whole issue of how it's funded in a moment, but can I ask you why you did it in two stages? I remember at the time railing just as loudly then as I am now about what's left with regard to any touching of this very minimal protection for working people in the face of bankruptcies and closures and orders of non-payment. Why did you do it in two stages?

I remember alleging at the time that this was what you were planning to do. Oh no, you weren't going to do that. This was just a minor adjustment necessary for fiscal reasons, yadda, yadda, yadda. Here we are, sure enough, Bill 136, and you're killing the rest of it. Why weren't you just up front with people and do it all the first time? Why did you do it in two stages?

Mr Maves: I wasn't the parliamentary assistant at that point in time and I don't know what went into the decision at the time, but I would say the thinking was to reduce the taxpayers' obligation under this program. For whatever reason, they did it partially initially, and now we're doing it completely. The idea was to reduce the obligation at that time, and now we've decided to reduce the obligation, except we still have the obligation to attempt to collect these lost moneys for these employees. We still have that obligation, we still keep that obligation, but not to upfront the money to them.

Mr Christopherson: I can recall your minister being so proud of the fact that even the gutted version, she said, was still better than anything anybody else had. She thought it was wonderful.

Mr Maves: I guess under the previous government there was a very poor record of collections, and some of the changes with regard to privatization of the collection of the debts, we're hoping we'll have a much better record of obtaining moneys owed from bad employers.

Mr Christopherson: We'll come back there in a second too.

I want to ask you, say you or a family member of yours or a constituent or somebody you cared about — because we're going to start putting some human faces to these things — were faced with a situation where you had a company that you knew was teetering but they kept coming to you saying: "Don't worry, we're going to make sure you're covered. We wouldn't leave you high and dry. Don't worry, Bart. We wouldn't do that to you. You're a swell guy and you've been a real good, loyal employee," until you showed up at work one day and the doors were either locked or you got the word from on high that it was time to go home because there was no longer a job, there was no longer a business. "Sorry, we really meant to give you that money but we can't."

You're out high and dry for weeks and weeks of pay and vacation entitlement and severance and termination that you're entitled to by law, but your employer is refusing to pay it, and you knew that the NDP had brought in a program that said, "If you're faced with that disaster, you can come to the ministry and we will make sure that you don't go under, we will make sure you're covered, and then as best we can, we will take responsibility for getting that money back."

You, Parliamentary Assistant, can argue all you want about how successful it's been or not, but if the full force and effect of the provincial government can't collect the money that's owed, there is no way on God's earth that the single employee who's been stiffed is going to be able to get it. The only thing in many cases that saves them from total destruction in terms of their family finances and survival is this plan. I want to know how you justify to that worker why it was okay once again for Mike Harris and Elizabeth Witmer and now Bart Maves to take away rights they already had protected in law. What are you going to tell them?

Mr Maves: My response is simply that I would hope the ministry had a better program to collect money owed, perhaps private sector collection agencies being one example. I would also hope that I, as an employee — I'm at the bottom of the list currently under the federal government's Bankruptcy and Insolvency Act, and that hasn't changed for years. This government has asked them to change that so that individual employees will be moved up in priority to collect moneys owed to them. If that were the case, I think there would be a lot better reception of moneys owed for employees who are in this position.

I don't know if your government lobbied at all to have the bankruptcy act changed in this manner. I don't know if the Liberal government did before that either. We have been doing it for at least the first portion of this year and to date the Liberal government has not seen its way clear

to do that. We'll continue to ask them to do that. That's what I would hope.

Mr Christopherson: I think when you get home at night you ought to sit back and think about how, in the real world, you would react if that were the answer given to you by somebody whose job is secure, at least for the next little while, and who makes a whole hell of a lot more money than they do, and that was the answer you got.

Let's just explore what you've said a little bit. First of all, when you say you're recommending to the federal government, I sure hope you're not pulling out the heavy artillery and getting really heavy-handed like Tsubouchi did with his resolution on gas prices. I hope you're not getting that nasty with the federal government, where you would take a whole resolution off to Ottawa. We've got a Confederation to keep together here and those kinds of acts of extremism don't help.

That's a nice, convenient out to talk about the federal Bankruptcy and Insolvency Act, but the fact of the matter is New Democrats brought in the employee wage protection plan just because the federal government wouldn't do anything — and I don't care what political stripe it is — and that is unfortunate. They had a piece of legislation that amended that law, as I understand it. There was a clause in there that would have helped and they dropped it. That's a crime and that's a shame, but it's the reality.

Workers aren't coming here on bended knee at the end of this committee room asking you to create this program. We already responded to that need when we were in government. You're the one taking it away.

You say it's about money and about collection and about taxpayers and how this is funded. If that were the case and if you have so much faith in your privatization of the collection services within the Ministry of Labour, then why don't you just offer up a new funding mechanism, a new funding formula, rather than killing the whole thing? How can you say, "We hope we're going to be better at collecting money than the ministry has been in the past, but we're not confident enough we'll collect the money that we're prepared to keep this program in place"? If you don't think it should be taxpayers who pay it, you think it ought to be employers maybe, there are an awful lot of working people who agree.

We, at the time, were concerned about adding any kind of what were seen as payroll taxes at a time when we were going through a terrible recession, we were being ravaged by the free trade agreement. Even a left-wing social democratic government of the NDP was concerned in that kind of climate about those things.

If you want to turn around and remove it from general revenue funding into a payroll tax, that's fine, but what I want to know is, if what you say is true — and I don't believe it — that you care about this program and you care about these workers, why aren't you offering up an alternative funding program rather than saying, "Because it's not being funded properly, we're going to kill it"?

Mr Maves: I guess to that directly I could say I think you knew the position of the government on this and I don't see an amendment of an alternative funding program

from either your party or the Liberal Party. I thought that might have been forthcoming since you did talk about it during the hearings.

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Mr Christopherson: The Chair of the committee ruled our amendment out of order, Bart. Stay on the point.

The Chair: Please let Mr Maves finish.

Mr Maves: Secondly, as I said before, it's the position of the government that taxpayers shouldn't pay for bad employers. Taxpayers already pay to try to collect the bad debts. The new funding formula goes to the points I just made, and you did talk about the fact that you don't believe the government is making serious efforts towards having the federal government change the Bankruptcy and Insolvency Act. I think we've gone way beyond what previous governments have done; in fact we've brought it to a meeting of labour ministers, and governments from all three parties have agreed to it.

Mr Christopherson: Oh wow. Not to a meeting?

Mr Maves: We have the agreement from 10 provincial governments now that the federal government should indeed change the Bankruptcy and Insolvency Act in this manner. Those are a lot of steps in the right direction to have that act changed. I think we even heard from people during the hearings who said this would be the most appropriate way to have these moneys reimbursed. So we'll continue on that path.

Mr Christopherson: Who did?

The Chair: Mr Hardeman —

Mr Christopherson: He was responding to me.

The Chair: Briefly. Mr Hardeman is waiting, but go ahead, finish.

Mr Christopherson: No, put him on, because I've got a lot more to go through on this. We're going to spend some time here.

The Chair: Mr Hardeman, then.

Mr Hardeman: I guess it's somewhat on the same lines as my good friend across the aisle there was referring to, the cost of the program and the fact that the employee — whether I knew anyone who would find themselves in that predicament and whether one would look at it slightly differently, that's true. I think there's nothing as critical as getting paid for one's work. But I guess I have some problem and maybe that's why I agree with the suggestion in the bill to remove it. As much as I see the need for employers to pay their employees and employees to be able to collect their pay, I'm not sure that my mother should be responsible for those employers who do not pay their employees. I think it's not government's job to take tax money and make up for the bad employers or for those who go bankrupt. The government should be putting forward best efforts in order to collect this money and make sure that all employees get it, rather than taking tax money and just covering the cost of all the losses that may occur.

Mr Christopherson mentioned that the NDP put in a good program and covered the shortcomings that were there for these employees who were being done out of their pay. I think at the time it was put in place they may even have had the thought that they intended it to fund

itself. They did a reasonably good job of paying out the money, but they did a dismal job on collecting any money to cover the cost. When you look at the numbers from the time the program was in place, it would appear that they not only didn't collect it from the companies that went bankrupt and no longer could pay their employees but they didn't collect it from all the ones that could have paid either. It was easier just to spend the fund and spend the taxpayer's money than it was to go after it.

I think it becomes very important that the government proceed and put more teeth in the collection, get more of that money collected and give it to the employees who have it coming, rather than just keep funding it with taxpayers' dollars. Like I say, I think it's very important that these employees are protected, but I have a lot of people I represent — I know Mr Christopherson only represents a certain part of his community; at least it's the only ones I've heard him say he represents. I have a lot of different types of people in my community that I have to represent. I have some taxpayers who have trouble paying their taxes. I have people who do well to get around. They're not in the position that they have need of this program but they have trouble getting around and they're telling me that they can't afford to pay more taxes.

I think we have to look at where tax money is being spent and whether it's being appropriately spent, and I think this is one area where the government should be collecting it from those who owe it, rather than just taking it from the general taxpayers and passing it out again. So I support this change that we're making and I would hope the rest of the government members would do the same. The only reason I say the rest of the government members is I kind of gather from what I've heard so far that the opposition may be considering voting against it.

Mr Patten: I'd like to ask the parliamentary assistant, during the hearings I recall two groups specifically — one was the Employment Standards Work Group that gave a good history of the stimulus for the actual program that was put in in 1990. The case was cited of course of the 300 Chinese-speaking garment workers who showed up at a factory one morning and there was nobody there. They were left stranded. They went on to say that over the course of a four-year period more than 50,000 — that's a lot of people — Ontario workers utilized this program and that from 1993 to 1997 the average claim was \$2,146. We're not talking big bucks for anybody getting rich or exploiting this kind of situation. We're talking about a lot of fairly low-paid people who are going to be at the end of the line and be out.

Of course you will recall the Chinese Workers Support Network. They were one of the final groups to speak to us on Friday. The cases they talked about certainly convinced me that the need is still there, that there's a lot of people — and it tends to happen in certain industries more frequently than others. But they were concerned enough to make that representation.

So my first question to you is in response to that, and there were others as well. While it wasn't a primary one, I think these were the two that addressed the issue in a

primary sense, or almost in an exclusive sense. What was responded to in terms of the government re their submissions?

Mr Maves: I think it's obvious to say, Mr Patten, that any government, every government, when they have public hearings on a bill, don't take every single presentation and say, "We have to make a change in the bill in order to say we responded to this particular presenter." That's just not the case. We made it clear to that presenter at the time that it is the government's view that it's inappropriate for Ontario taxpayers to cover employer obligations and that we would be seeking other avenues in order to help these folks receive moneys owed. That's still the position.

There was talk I believe from one of the presenters, and it might have been the presenter that you are referencing right now, that they agreed it would be appropriate for this to be covered first and foremost by the bankruptcy act, and so they lauded our attempts to do that at the time. I'm not trying to intimate that they supported the direction we're taking here, but they did say they supported the direction of putting this where it rightfully belongs, the Bankruptcy and Insolvency Act.

The other thing too is, I don't know at the time if they brought it up but I know it was a discussion around their presentation — I think it was Mr Christopherson who brought up, "Maybe you can fund the program a little differently." I think if someone, the third party or the opposition party, wants to come with a program where this is funded differently, perhaps the government of Ontario would look at it, but at this point in time we're not in the position to do that. Also, it's still our view that Ontario taxpayers shouldn't cover these employer obligations.

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Mr Patten: Here is another example, Madam Chair, where not having the amendments beforehand, you're not sure what the hell you're dealing with, and there's been nothing put forward in terms of an option or an alternative.

I take the criticism with my federal colleagues, and I will take it up with them too. But the sad fact remains that the lowest-paid people are the ones who get it in the neck time after time. While your principle may be, "We don't want the general taxpayer to pay for this," it's the same sort of thing as in the workers' compensation bill. It's a no-fault employer's program. Maybe there is something along those lines that could be developed or negotiated, but at least something, rather than just throwing it out. You know it's going to help bad employers and it's going to hurt a lot of people in the bargain. That's the sad part about all this. As you might expect, we will vote against doing away with it.

Mr Christopherson: I have a couple of responses to what has been said, and then I want to pursue a few more lines of questions. First of all, I feel no need to be defensive about not putting in an amendment to talk about alternative funding. I was part of the government that put this in place in the first instance. You are now the government. If you are telling me that the only reason you won't leave it in place is because of funding, then it's your job to come up with that alternative.

But I know that's not the truth, that's not the case; that's just your cover story for going after something that takes care of workers in an area where you have no interest. In fact, everything you have done to date in terms of labour relations that affects the lowest-paid working people in our province has gone after them, taken away their rights, made things worse for them, emboldened bad bosses to be even worse, denied all kinds of privileges and rights they have earned and deserve.

I don't buy for one second that it has to do with funding and I merely have that line of questioning to prove the point. If you really believed this was important, if you had some compassion and understanding for what it's like for these people, you and your government would have put your efforts towards finding an alternative funding method you could live with rather than using that as a cheap excuse to go after these vulnerable workers. That's your responsibility, not ours, and our amendment had the effect of putting things back in place.

To Mr Hardeman, a couple of things: Towards the end of your comments, you said you have people who have trouble getting around. Don't talk to me about people having trouble getting around under the Mike Harris Ontario. I've got people in my riding in downtown Hamilton who have had reduced public bus service that affects their ability to get around. Do you know what? I've also got the disabled transit system in Hamilton-Wentworth, called DARTS, and they have had to cut their service too because of your government and the cutbacks to our community. Don't for one second start talking to me about how you care about all the poor people in your riding who can't get around when your government and your agenda are hurting people more than any other government in the history of Ontario.

The other thing — and I raise this lightly and I won't stay on it long, but you started it — is that you talked about, as an example, your mother paying taxes. Fair enough. But as I mentioned the last time we discussed this, your mother also pays the police and every other public service, including the justice system, to go after bank robbers. That's not her money in the bank, that's the bank's money, but her taxpayer money is going to pay to put the cops on the street and the prosecutors in the courtroom and the judge on the bench to put those people in jail — the bank's money. We all pay for that. It's just part of our system of justice.

She also will pay for the victims of crime compensation fund. Somebody gets hurt in a community that has nothing to do with her, in another part of the province, in a crime that has nothing to do with her, and there is a victim who has nothing to do with her, but we have a fund that is there to help those people. We all pay for that.

You certainly wouldn't ever expect a rape victim to pay the cost of the police and the hospital and the court system for what it takes to try to give them justice. You wouldn't imagine it; not even you hard-hearted people would think that way.

Yet it's okay to kill a program that's there to protect workers. What gets me so enraged about this is that you

are the party that always talks law and order, the work ethic. Here are people who have followed the law, broken none, have lived up to the work ethic, have gone to work every day, in many cases some of the worst jobs in our society, in many cases don't have the benefit of unions, the benefit of collective agreements, are earning minimum wage or just a little better, who have been left high and dry. It's okay to leave them out in the cold.

Again, we're not asking for something new. It's already in place. This is a right and a protection that is already there. You say the reason you don't support it is not that you disagree with the principle but that it's not funded properly, but you offer up no alternative for funding it differently. That's not your amendment. Your only answer is to find an excuse and then kill it.

I'm asking now, Chair, letting you know well ahead of time that I want a recorded vote on this, please. I'm also letting each of the backbenchers in here and in every other Tory riding know that at every opportunity I have, when there are closures in your backyards and these vulnerable workers are left exposed, you can bet your ass they are going to know all about what used to be in place and what you took away. You explain to those workers why it wasn't fair that this be funded out of general revenue.

Of the people who have claimed — do you know who we're talking about? That seems to be the problem. I don't know how the hell you do this to people, I just don't. They had over 50,000 people from April 1, 1993, to March —

The Chair: Mr Christopherson, I'm sorry to interrupt. I just want to remind you about your parliamentary language and how much we all appreciate it when people's parliamentary language is appropriate.

Mr Christopherson: What did I say now? "Bet your ass"? Was that the line?

The Chair: That was your language, it wasn't mine, and I don't think it's appropriate for the committee.

Mr Christopherson: That's in the Bible too. It's always words that are in the Bible you don't like: "hell," "ass" —

The Chair: Usage, in context.

Mr Christopherson: I don't want to get off the point. I withdraw if it makes you feel better, Chair. I feel like Harry Truman sitting here. I think we're doing real good if I'm limited to "hell" and "ass." But all right, we'll keep it under your rules.

Between April 1, 1993, and March 31, 1997, there were over 50,000 workers — bankruptcies are going up, so more and more people are in this position — who got an average of \$2,100. Do you know how long it takes to be owed \$2,100 at minimum wage and what it must mean to some people to have that taken away from them or not have it given?

The thing I started to talk about earlier, and I want to come back to it, is that they have worked for this money. They are entitled to it. They have been stolen from. If somebody broke into their house and stole the money, I'm not hearing you say they shouldn't be able to call the police to find out what happened, but just because it's an

employer that robbed from them, you seem to say that's okay. I don't understand the difference.

These people have had this money stolen from them, and right now there's a program that says, "If it's your employer, here is your redress." If it's your home or your car, call the police, and their efforts are your redress. If you are hurt and you are an innocent victim of a violent crime, there is some money available through the victims' compensation fund. All of them are funded through taxpayer money. But because it's an employer who is doing the stealing — and it is stealing — that's different. That's okay. It's okay to let that kind of theft go unchecked.

1950

I can remember when we did Bill 49. Boy, there were so many promises about what your privatization of the collection agency was going to do. The world was going to be upside-down. How much money have you collected? How much of an increase in what you have collected under your privatization method, Parliamentary Assistant?

Mr Maves: The tender contract has just gone out on that, so they haven't selected the collection agent yet. That will be done soon, I believe.

Mr Christopherson: You passed that law 10 months ago. What have you been waiting for?

Mr Maves: I don't have the details of the tender itself and why the tender took until now to come to this point.

Mr Christopherson: I would assume that all the employment standards officers that this privatization was going to replace are still on the job. Nobody has been laid off yet?

Mr Maves: I'm not sure about that. My understanding is that it was the previous government that actually laid off everyone who was in the collections unit. When we tender the contract to the private sector, it doesn't replace anyone at this point in time because they've already been removed. My understanding is that there is no one there. The collections unit is not there making these collections now and the private sector contract will fill the void.

Mr Christopherson: That's what I was saying. No one has been laid off as an employment standards officer in this area since you passed the bill because you haven't got your collection agency in place yet.

Mr Maves: No.

Mr Christopherson: I will wrap up, simply because I can only do what I can do. At the end of the day, you guys have the power and you're going to use it. But like the pay equity and like Bill 49 and like what you did with scabs and other such things — but I don't know why this one really does to me what it does. It just seems so obvious to me that no government should be able to do this to people. Watching it happen around me — I don't know how you do it, I honestly don't.

You should think about the fact that your own minister, as I mentioned at the last meeting, when she was faced with workers in her riding who were looking at a closure and wanted the difference between Bill 7 and what we had in place, if you read her letter, she goes out of her way to assure those workers in her backyard that she will fight for them to make sure they get the money they're entitled

to. The money they were entitled to at that time was the difference between the \$2,000 you brought in under Bill 7 and the \$5,000 we allowed. When she acted as a local MPP faced with those workers, she did the only thing any of us could do at a human level, and that is to say, "I'll fight and do everything I can to get you this." It's just that "this" was something she was opposed to. That was what the NDP put in place. You're taking whatever little is left of that, because you've gutted half of it under Bill 7, and killing it.

Every one of you who votes here today and in the House who reads in the paper about what happens to individuals and families when their company has gone bankrupt and they were owed wages and benefits and didn't get any termination and severance pay, when you see the life they and their kids end up with, you remember the day you stood up and backed taking away this program from vulnerable workers. You remember that day, because you had the power to do something about it and you didn't. People like Mr Hardeman and Bart Maves even had to go so far as to sell their soul and sit here and defend this kind of evil activity.

The Chair: Further questions and comments on section 5? Seeing none, I put the question. This is a recorded vote. Shall section 5 carry?

Ayes

Hardeman, Maves, Newman, Smith.

Nays

Christopherson, Patten.

The Chair: Section 5 carries.

Moving then to section 6, we have a government amendment on page 9.

Mr Maves: I move that subsection 6(1) of the bill be struck out and the following substituted:

"Commencement

"(1) Except as provided in subsection (2), this act comes into force on a day to be named by proclamation of the Lieutenant Governor."

A quick explanation is that as this section sits now, it refers back to the previous section 4. Since that has been withdrawn, we no longer need to refer to it in this section. It's really a technical amendment.

Mr Patten: This is the proclamation date when the bill comes into effect. What does this section do?

Mr Maves: If you look back at subsection 4(2), there was a date of commencement, January 1, 1988.

Mr Patten: So that does away with that?

Mr Maves: We struck that out in a previous amendment, all of 4(1), (2) and (3). Since we struck that out, we no longer need to refer to that in this commencement.

The Chair: Further comments or questions? Seeing none, I call the question. Shall this amendment carry? That's the government amendment on page 9. All those in favour? Those opposed? This amendment carries.

Any further discussion on section 6? Seeing none, I put the question. Shall section 6, as amended, carry? All those in favour? Opposed? Section 6, as amended, carries.

Moving then to section 7 — my apologies. We go to schedule A. The next amendment is a Liberal amendment. You'll find that, colleagues, on page 12.

Mr Maves: On a point of order, Chair: There are several amendments here that you've been passing over; ones that say one of the particular parties recommends voting against a section. You've just glossed over them. I'm assuming you've ruled them out of order by not referring to them.

Mr Patten: They're not motions; they're just information.

The Chair: Yes, that's correct.

Mr Maves: Normally, the Chair says something is out of order or — I'm sorry. I'm just clarifying that because it was unusual.

The Chair: Maybe that will be easier. What I'll do is that I will mention —

Mr Maves: It doesn't even matter if you don't do that, Chair. I was just trying to find out. I didn't want us to find out later that we were missing amendments that were in the package.

The Chair: We'll go to page 12. This is a Liberal amendment.

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Mr Patten: I move that paragraph 3 of section 1 of schedule A to the bill be struck out and the following substituted:

"3. To ensure the delivery of quality, effective and adequately funded public services to the people of Ontario."

My comment related to this is that we had deputations and witnesses and representations that addressed the two issues in this bill, and this is in the purpose of the bill. A lot of people talked about the whole ability-to-pay issue, affordability and best practices.

While I don't know the parlance of a lot of these pieces of jargon — a lot of these words tend to take on certain kinds of meanings; you develop managerial language cultures that use words for convenience to describe something. In the labour relations area, "best practices," we were told by witnesses, suggested that this really meant the best price, not necessarily the best product, that it's really a euphemism or a code word for comparing what you might get. It's a term that can be used in privatization to talk about getting a better price even though the product may be inferior.

The whole question of ability to pay has been said many times. No one can cite an example of where — I have never heard that even Microsoft would say, "We have such a big surplus here that we're going to continue to give money." I don't know whether they have employee collective agreements or not — they probably don't — but I bet some of the contracts they have will do that. But my point is that nobody says, "We have extra money to increase wages." The employer's position, by virtue of the nature of the negotiations which are often positional — they're not principled negotiations.

This is really to do with the purpose of the bill. It seems to me that the primary concern is "To ensure the delivery of quality, effective and adequately funded public services to the people of Ontario." I'm advised, whether you want to put it in or not, that arbitrators do consider the reality of the day for the employers. We all know what the reality of the day is in Ontario in many areas, especially with the public services that have been cut back by the provincial government.

This is the background to this. I would say most people, certainly more than not, addressed specifically both those issues. That's why I submit my motion.

Mr Hardeman: First of all, I have some problem understanding how one would define "adequately funded." I have no problem understanding "best practices." My problem arises in trying to understand why anyone would define best practices as a race to the bottom. If it said, "to encourage the lowest price that ensures delivery of quality and effective services," that would be a problem, but I don't think best practices necessarily means the lowest price. I think it has to relate to the quality of the service, the effective and efficient way of delivering that service and delivering it at a price affordable to the taxpayer.

Quite a number of years ago when I was involved in municipal government and the municipality decided to institute a door-to-door garbage collection and waste recycling initiative, it was put out to the private sector for a bid. Through a committee of local government, a program was designed in terms of what we could do it for as a municipal service. I think best practices showed that that approach worked; in fact, at the end of the day it was a municipal service that was created with municipal employees, not the contract from the private sector. Best practices showed that the municipality, with its own workforce, could do higher-quality and better service for less money than could the private sector.

The effect of the Liberal motion would indicate that we should change nothing, that we should stay with the status quo of delivering services and the municipality should be asked just to fund whatever it takes to fund that service. It makes far more sense on behalf of all the people involved, including the municipal employees, to encourage best practices so they can look at how the service is presently delivered. Maybe they can compare to how it's delivered in neighbouring municipalities of a similar nature if they are doing it for less money with their own forces, to be able to look at that and see why the neighbours can do it more economically, or, if they're doing it with the private sector, is that a better approach?

In the last number of months, there have been many instances where the municipal employees have put in a bid against the private sector and won the competition. I don't think best practices automatically eliminates municipal employees. In a lot of municipalities the best practice is the present workforce. I don't think we should take that away from them, to suggest that the only way the present employees can be protected in municipalities is to have them protected by legislation. I think they can very well be the best practice, the most cost-effective and efficient

delivery of public services. I can't support the wording of the amendment to "adequately funded," because I think that just means we should suggest they stay with the status quo and that municipalities should pay whatever it takes to do that. In my opinion that's the only way you can define "adequately funded." I have some problems with that.

Mr Patten: I'd like to respond to that.

The Chair: Mr Christopherson first, and then to you.

Mr Christopherson: I'll be very brief and allow Richard to speak to his own amendment, but I felt it necessary to at least add the support of my caucus to the amendment and also to point out to the government that if you think about it, the labour movement couldn't afford to be focusing on things that didn't matter. Politically speaking, go back and look where they were prior to your gutting the bill, prior to you bringing in the amendments. They had to pick the key spots they were prepared to go to the wall on. They raised this issue not because they needed to find a bogeyman in here but because they have a serious concern, as the member for Ottawa Centre has said, that it's code words.

They've got examples in that world where this has been used as a way to compare private sector, usually non-union, wages to their own. As a rule, union contract wages are higher. That's why you join unions, so you can focus the strength of a collective at the bargaining table, so that individually you're not taking on the power of the employer, but together you try to get as close to a balance as you can. It's not unusual to see in union and non-union such a difference. It also points out the fact that there's more money to be had there than is usually admitted, unless there's a union to force the truth on the table.

However, the other thing I would remind the members of this government is that it's you who have stated — my words — that you want to privatize everything that moves that's in the public domain. This is a real big part of your philosophical foundation.

Interjection.

Mr Christopherson: That's right. I'm reminded that you even have a minister of privatization. This is a big thing to you. If you were going to buy any kind of service or run any service, there's almost always more profit to be made, certainly in terms of small corporations, if you can keep the pesky union out of there. With the policies of this government, you've got it made in terms of keeping people on edge. It just stands to reason that workers and their representatives in the public sector are really nervous when they see the Mike Harris government making changes that their experience suggests mean lower wages, greater job insecurity, also knowing that underneath everything with you is the possibility and the desire for privatization. I think there's very good reason why the labour movement and the opposition parties in this case should be very sceptical of the government's stated purposes here versus what they're really up to.

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Mr Patten: In response to Mr Hardeman, I would like to say that we didn't go into all the measures and quality control programs out there, but I would bet that every

single recipient affected by the transition, whether it's a school board, a hospital or a municipality, has upped their resources in terms of trying to minimize their costs and remove waste. They're not going to be starting to do that now; they've been doing it for the last several years, I suspect. Certainly the hospitals you know have been doing this for several years, and a number of school boards and municipalities as well.

Adequate funding works both ways. Adequate funding relates to your program, and if you're looking at an effective program you want to look at how cost-effective it is and whether there are other ways of doing things. I'm convinced that the energies at the municipal level — you've got some experience there, and I'm sure some of your former colleagues will tell you that they're scrounging and scraping and looking at all kinds of ways in which they can not raise tax and continue to deliver at least the same quality, maybe looking at reorganization or different techniques, this kind of thing.

"Adequately funded" is a condition I did not see in this section and I think it's important. The value is on really best practices and affordability. Quite frankly, I believe the government is in a conflict of interest. The government is controlling to a large degree the funding of many of those areas, the total funding package, is cutting back, and then at the same time is saying, "By the way, we're going to give a criterion to look at affordability."

The Minister of Education continually talks about the affordability of the system. He even propagates a myth that Ontario spends more than the Canadian average of a billion dollars a year. We had a witness who came before us, and I followed up with him. He provided some research that showed it was nowhere near a billion dollars; it was \$243 million. That can be readily offset by, alone, the cost of living in Ontario, which is about 13% higher than the national average. That would more than take care of that figure. Indeed the government has already cut back \$533 million in education, which is double what the proposed reason for cutting back is. Yet the Minister of Education is talking about an additional \$1 billion and we understand is trying to freeze the social contract payments, and so you're maybe talking about \$2 billion.

I can only conclude that that comes from the same source, the master plan. The boys in Mr Harris's office are looking for money from all the ministries, and this is one way they can provide some tools for municipalities to not raise taxes, because it would be an embarrassment for the provincial government if municipalities did that. Of course the municipalities, or whatever the institution or organization, are pressed to the wall, and they would be able to use affordability as a negative term, which means, "We're going to try and balance our budget, and therefore we can use our collective agreements as a way to deal this out," to pay less or maintain the same or whatever.

I think affordability takes care of itself, certainly given the present climate, and "adequately funded" means that if you're going to have services, make sure you've got the resources to provide quality of service effectively to the people of your community.

Mr Dan Newman (Scarborough Centre): I guess we get a little insight tonight into the opposition, in listening to them speak about this section of the bill. It's little wonder that we had 33 tax increases on the part of the NDP from 1990 to 1995, and there's little doubt, listening tonight, about why we had an increase in the provincial debt of over \$50 billion during their reign. I guess they just don't want to see effective, efficient government. I don't know what they have against it. Maybe it costs less, I don't know, but maybe that's why they're against it. Fundamentally, they're opposed to having efficient and effective government.

But we have a responsibility to the taxpayers of this province, be they male or female, union or non-union, public sector or private sector, young or old, rural or urban, and that is to have good public services at an affordable cost to the taxpayer. I know that's what we stand for on this side of the committee. I hope our friends in the opposition parties feel the same way, but I don't think they do.

When Mr Christopherson spoke about privatization, I don't know what he would have against privatizing some services if it was proven that the cost was lower and that the services were of as good a quality. He speaks about having a minister of privatization, that the government seems to want to go the privatization route. I think we have a responsibility, as a government, to look at every possible expenditure and to see if we can't provide it to the taxpayers in a more efficient and cost-effective manner. I don't see why the opposition would be afraid of that, but perhaps they are.

In this entire bill, with the amendments, it's proven that as a government we have listened. We listened to the concerns the opposition parties raised and to the concerns the union leaders raised on behalf of their members, and it's still obviously not enough. I guess the goalposts have been shifted, and it just doesn't seem to be enough for the opposition parties.

On the topic of adequate funding, in our health care system today we're spending \$17.8 billion. In the Common Sense Revolution we made a commitment to \$17.4 billion, so we're exceeding that by over \$400 million. The provincial Liberal Party, in their red book, promised to fund health care at \$17 billion, which is \$800 million less than we're funding it at today. With the major reinvestments we're making in health care across this province, not only in hospitals but in home care, in long-term-care centres — a couple of weeks ago I had the good fortune of being able to open the Bobier Villa in Elgin county, right near the riding of Middlesex. Mr Smith was there for the opening of that, and he saw at first hand in his community what those reinvestments meant and how happy the people were in that community to see those reinvestments. Those reinvestments are coming from finding the efficiencies within the entire health care system, whether it's hospitals, whether it's waste and duplication at whatever level. We're finding those efficiencies and pumping every single dollar back into the health care system.

The long-term-care centres I mentioned. We're providing community-based long-term-care services in this province, providing an adequate level of funding right across the province. We have seen MRIs in northern Ontario. For example, I had the good fortune of being able to open the MRI in Timmins and saw what a difference that made to the community. I was quite surprised to read in the local Timmins paper just last week that the local NDP member for Cochrane South had been talking about how health care was in bad shape in Ontario, yet when I was there in Timmins, the people of Timmins, including the local member, were quite pleased to see that we had funded that MRI.

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With that MRI up and going and the other ones we have committed to, we'll have more MRIs in Ontario than the rest of the provinces combined. Think about it: nine other provinces, and Ontario has more MRIs going than the rest of Canada combined. So I think we're definitely funding health care at appropriate levels.

In my own community we have a dialysis centre at Scarborough General Hospital, which is good news for our community. This means that people in my community don't have to drive and face the traffic in downtown Toronto and park. I can tell you first hand on the traffic note that there's more traffic in downtown Toronto today because more people are working. There are more people working in this province. Knowing and seeing that my constituents don't have to travel all that distance and park their vehicles and be away from their jobs and be away from their families, that they can go right to the local hospital and get the dialysis service they need, is wonderful.

All this came from finding the efficiencies within the system. I know that every single member in this room knows that there have been reinvestments in their own ridings. I had the opportunity to be in Mr Ouellette's riding of Oshawa and make an announcement —

Mr Christopherson: He likes to keep his head down on this.

Mr Newman: No. He was quite happy, Mr Christopherson —

Mr Christopherson: Of course you mentioned his name —

Mr Newman: He is the hardworking member from Oshawa. They love the job that he's doing in Oshawa. In fact, when I was at the Oshawa seniors' centre a couple of months ago, I guess it was, there was an announcement of a reinvestment of over \$40,000 at that centre to directly help the seniors in Oshawa. I think it was absolutely wonderful news. I saw, looking through the clippings, that you were there with a shovel, along with the Minister of Health and the member for Wellington, who had popped by tonight to listen. He was in the picture as well, and there was a new facility being —

Mr Christopherson: His secretary and Ward and June Cleaver were there.

Mr Newman: I think you should leave the Cleavers out of it, Mr Christopherson — again more reinvestments

in ridings, whether it's a Conservative riding or a Liberal riding or an NDP riding. I saw that picture of the Chair there at the groundbreaking of that facility.

There are reinvestments as far north as Moosonee and beyond. They received an extra \$232,000 this year at the James Bay General Hospital, which serves the coast of James Bay and Attawapiskat and Fort Albany and Moosonee and Winisk and Peawanuck. Right across this province, whether it's here in Toronto, in the north, on the coast of James Bay, this government is reinvesting those dollars right into front-line services.

I travel the province. I was in Kingston a couple of weeks ago and spoke to the local district health council. They were quite pleased to see that the number of district health councils was being reduced, and they understood that. They had a lot of questions and they spoke about health care cuts. When I explained to them that it was actually the federal Liberal government that was cutting health care in this province, they understood and they started to realize — I saw their heads nodding up and down.

Mr Christopherson: They were falling asleep.

Mr Newman: No, they weren't falling asleep. They were listening very attentively and they realized that it was the federal Liberal government that has slashed health care funding in this province by \$2 billion. When you think about it, it's just an outrageous amount of money. When I explained that to the ones who didn't understand that, they got a much better grasp on what was happening.

The opening of the MRI in Newmarket, which had three hospitals, York Central, York County and Markham Stouffville Hospital, coming together with one MRI in place at the hospital in Newmarket is an effective use of money in York region. The local members were quite pleased to see the MRI go into their area. These are just many examples of adequate funding in health care.

Again, the \$17.8 billion we're spending is \$800 million more than the provincial Liberals, and then you hear the Liberals in the House talk about health care and taking shots at health care workers and that, when their own critic is literally banned from going to some hospitals for tours because they know his motives and what he's doing and what he wants to present. I think their attempts at "mediscare" are simply not working and people understand that there's this fearmongering.

In Sarnia recently they spoke about someone talking about the level of health care, and of course there's the leader of the "mediscare" movement, Mr Kennedy, talking about how this is happening right across the province. He couldn't be further from the truth. We're finding more and more that they're not even allowing him into hospitals. They're banning him from going into hospitals because he spreads nothing but doom and gloom right across the province.

It's just a shame, because when people see what's happening, that increased funding in health care, they see what it means in their community. You look at the opposition, you listen to them and you look at the number of hospital beds they closed: They closed well over 10,000

beds. They just kept funding the administration and the waste and the duplication right across the province. That number of beds, those 10,000-odd beds they closed, were actually the equivalent, if you can believe it, of 33 medium-sized hospitals.

The Chair: Excuse me. Just to remind you, to bring you back to the amendment before us speaking about best practices —

Mr Newman: I was talking about best practices, adequate funding; I was just getting back to that. They saw that there are all these reinvestments right across the province, whether it's in mental health services, long-term-care services, dialysis, breast cancer screening, all valuable programs that the people of Ontario need, and it's through a more efficient health care system that we see those benefits in our community today.

Some people will shake their heads and say that no, it's not going to happen, but believe me. Talk to the professionals, talk to the people who are working in the health care sector and they'll tell you we have a more efficient, more effective health care system right across this province. Far too long we've all been led down the path to believe that health care equals hospitals. Health care equals more than hospitals. To see those community-based services through the community care access centres, the 43 that are in place across this province where people can make one phone call, not 15, not 20 but one single phone call and be able to get the long-term-care services they need right in their own community by people from their community, is absolutely wonderful. Professionals tell us it's bringing more dollars towards the front-line services, more dollars to home care, more dollars throughout the entire system. The bill talks about best practices, and these are just more examples of being more efficient.

If the opposition wants to be against these sorts of things, let us know. Let us know that they don't want the reinvestments in their communities. What they're telling me in my community is that they appreciate the reinvestments. They see that these reinvestments are working, that we have a better health care system today than we had in June 1995, before the election.

When the opposition party and the third party were the government, they spent their money on bricks and mortar. They didn't put the patient first. We're trying to put the patient first, to have a more efficient and effective use of taxpayers' money.

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I'm sure Mr Hardeman's mother, whom he spoke about as a taxpayer, probably says to him that the health care system in health is far better off. The reason I know it is because my own mother talks about the health care system. She says it's a better health care system today than it was when the NDP or even the Liberals were in power, when they started cutting hospital beds and not providing for more effective and efficient services.

With that, and I see everyone not nodding their heads, I will finish off and say that I see no reason to oppose encouraging best practices as they relate to health care.

Mr Patten: I'll be brief. First of all, it's good to know that Mr Newman has a sense of humour, but I don't know where he gets his data from. I guess he's been travelling around the province in the place of the minister to deliver speeches and one thing or another. He wanted his mother to know what his itinerary was or something of that nature.

Mr Newman: That was just last week.

Mr Patten: That was just last week.

Mr Christopherson: That's what we need more information on. They're doing far too much travelling.

Mr Patten: First of all, the \$1.8 billion you're talking about in health care is not in health care at all. As a matter of fact, the information I have is that the operational budget for health, not the capital budget — that the extra costs that are pushing \$18 billion are all related to the restructuring, capitalization, severance pay and all the costs that go on there and that the actual medical budget, the health budget, is a little bit less than or maybe exactly at the same level it was at 10 years ago even though in the last 10 years the population of Ontario has grown by 1.3 million. Don't give me that stuff about better quality. You can say it, but just because you say it, that doesn't mean it's true.

There were two studies this past week that maybe, because you were travelling, you didn't see: the CIBC study and the study done at University of Western Ontario that was commissioned by the OHA, because sometimes the people who are the direct managers or associations you don't like to listen to said, "We want an independent assessment." They came back, and what was their story? In a nutshell it was that health care is suffering from the funding levels of this government. They've taken hundreds of millions of dollars out of the operational budget.

Just to set you straight on that in terms of our commitment during the last election, it was that it would be no less than \$17 billion. We put a freeze and worked with the hospital sectors on that. We said the same in the education sectors, to try and find efficiencies jointly, and that there would be a freeze for a three-year period. That was our commitment. Some people had worries about it at the time. Now it looks bloody good to those people in education and to those people in the health care sector, believe me.

You talk about reinvestments. The expectation is that we'll lose \$60 million out of the Ottawa area. The original commitment was the reinvestment back into the community, yet we're talking about \$60 million just from my own area. Anyway, I don't want to dwell too much on that particular area.

Every time I hear "affordability" from this government I get worried. If it truly were, "Let's take a look at cost-effectiveness; let's take a look at our quality of services," fine; I have no trouble with that. But "affordability" out there now is a scare word. If you want to talk about scaremongering, believe me: When you talk to anybody who's looking at education or health services and they use the word "affordability," they start to take deeper breaths.

My point is that the purpose statement here talks about delivery of quality and it talks about effective and ade-

quately funded public services. Mr Newman took a shot at our fiscal capacity. I would say to him that only once in the last 32 years was there an actual no-deficit situation, a surplus. Only once in the last 32 years was there a contribution to reduce the accumulated debt. That was in 1989.

You are each year adding to the accumulated debt by \$5 billion or so. Every year the accumulated debt is going up. By the time you finish your mandate, it will be well over \$100 billion; it'll be up around \$110 billion, \$120 billion. So if you think that's responsible, I don't. Anyway, that's a little off the issue, Madam Chair. As you know, I like to stick to the issue, so I will stop there.

Mr Hardeman: I wanted to commend my colleague for his accurate description of our health care system in Ontario. I want to go to the amendment that is before us, which is the Liberal amendment, as it relates to "adequately funded." Someone pointed out the inability of government or any sector of government to define "adequately funded." Obviously the federal government, as Mr Newman stated, decided that health care in Ontario would still be adequately funded if they took \$2 billion out of it. The province decided that doing that —

Mr Patten: They didn't take it out. You took it out.

Mr Hardeman: No, the federal government sent Ontario \$2 billion less that was intended for health care. They decided we didn't need it. The provincial government decided that to adequately fund health care, you could not take that \$2 billion out. In fact, you had to put it back in, which of course we did. The only reason I bring that up is not whether it was right or wrong —

Mr Patten: There was \$35 million for immigration settlement and you didn't even apply for the program.

Mr Hardeman: I would point out to the member opposite that I didn't interrupt him when he spoke, so I would appreciate it if he would extend me that courtesy.

I don't bring it up to say whether it was right or wrong. I only bring the issue up as to the inability to define "adequacy." That would be different depending on who was looking at it. The wording presently in the bill — and the reason I will be voting against the amendment — the present description of providing the best practices I think relates to all the other issues that Mr Newman spoke about. Finding the most cost-effective and efficient and quality way of delivering the services is what "best practices" is. I think all levels of government are well served by looking at a best practices approach to delivery of government services. With that, I will relinquish the floor and say that I will be voting against the amendment.

The Chair: Any further comments or questions on this Liberal amendment?

Mr Maves: Chair, are you about to put the question?

The Chair: I'm about to put the question.

Mr Maves: Can I request a 10-minute recess before you put the question?

The Chair: Certainly you may. Colleagues, we'll stand recessed before we call the vote and we'll reconvene in 10 minutes.

The committee recessed from 2041 to 2049.

The Chair: Colleagues, we have a motion on the floor and I'm about to put the question. This is a vote on the Liberal amendment which is found on page 12 and has been moved by Mr Patten.

Ayes

Christopherson, Patten.

Nays

Hardeman, Maves, Newman, Ouellette, Smith.

The Chair: It's lost. Any further discussion on schedule A, section 1? Seeing none, I put the question. Shall schedule A, section 1, carry? All those in favour? Opposed? Carried.

We move to the next amendment, which is a government amendment on schedule A, section 2, Mr Maves.

Mr Maves: I move that section 2 of schedule A to the bill be struck out and the following substituted:

"Arbitrations

"2(1) This section applies to,

"(a) arbitrations conducted under section 50 of the Fire Protection and Prevention Act, 1997;

"(b) arbitrations conducted under the Hospital Labour Disputes Arbitration Act;

"(c) arbitrations conducted under section 122 of the Police Services Act;

"(d) arbitrations respecting a matter concerning the amendment or renewal of an agreement or anything that may be the subject of bargaining under section 26 of the Public Service Act;

"(e) arbitrations under section 43 of the Labour Relations Act, 1995 as it applies under section 32 of the Public Sector Labour Relations Transition Act, 1997;

"(f) arbitrations under section 40 of the Labour Relations Act, 1995 involving a successor employer within the meaning of the Public Sector Labour Relations Transition Act, 1997 and a bargaining agent representing employees of such an employer.

"Purposes to be considered

"(2) In making a decision, an arbitrator or arbitration board shall take into consideration the purposes of this act.

"Other criteria not excluded

"(3) Nothing in subsection 2 relieves an arbitrator or arbitration board from any requirement under another act to consider criteria in making a decision."

The Chair: Do you wish to comment?

Mr Maves: A quick explanation is that this ensures that arbitrators making decisions within the scope of subsection 2(1), which is the fire, hospital and police sectors, consider this act's purposes.

The Chair: Further — Mr Christopherson.

Mr Christopherson: Thank you, Chair. I wish to raise a point of order now that this has been moved. My point is that all this, or some part thereof, which would have the same effect, is out of order and should not be allowed by you to be placed for consideration or vote. My reason for

that is that first of all it affects section 2 of schedule A on page 8 of the original Bill 136, which reads as follows:

"2. In this act,

"'collective agreement' includes an agreement negotiated under part VIII of the Police Services Act, an agreement as defined in subsection 26(1) of the Public Service Act and such other agreements as may be prescribed."

This is about definitions. The amendment talks about arbitrations and directions to arbitrators, which first of all, in my opinion, are outside the scope of the bill, certainly outside the scope of this particular clause. I believe that this amendment seeks to accomplish certain things with regard to arbitrations that have no relationship to clause 2 as I've read it from the original Bill 136. I would also point out that what I've said so far applies to all of it.

I would also point out that 2(1)(f) refers to a part of the Labour Relations Act that is not opened up by Bill 136. To the best of my knowledge there's nothing in Bill 136 that gets us anywhere near where (f) attempts to provide amendments, particularly when we look at section 2 of Bill 136. Again, everything comes back to that. But there's nothing in here that even gets close to that. I'm suggesting that this amendment is seeking to do something the original bill did not attempt to do. As I can see it, you're adding things to definitions and directions and interpretation of arbitration that bear no relationship to the original 2 within Bill 136.

Given all of that and given the fact that it goes beyond the scope of the amendment — it goes beyond the scope of Bill 136 in the case of 2(f), it goes into areas that are not opened up in any other area — and if they attempted to open it up by way of separate amendment, Chair, I suggest that you'd have to rule that alone out of order. But here it is as part of a series of definitions and directions and interpretations of arbitrations to all kinds of various acts and bears no resemblance to section 2 of schedule A as defined in Bill 136.

Therefore, I believe that there is a serious consideration on your part to rule this out of order in that it's beyond the scope and seeks to do things you cannot do by amendment only, particularly as it relates to what you've attempted to do in part 2, and would reserve the opportunity to comment again to you, Chair, when and if the parliamentary assistant wades into this.

Mr Patten: I agree with the point made by the member for Hamilton Centre. I've got a couple of additional points. I'd just like to underscore that right at the beginning of the schedule A contents it says "Interpretation," and under "Interpretation" it's got "Purposes" and "Definition." Then it goes on to another section which deals with "Commission." This is under "Definition," which is in the "Interpretation" section.

I'd like to point out that in May 1970, Speaker Lamoureux ruled on a similar point to the one that has been raised here and that it now forms part of Beauchesne's Parliamentary Rules and Forms. I'll tell you what he said at that particular time in relation to a similar amendment that came up in the House: "Although the preliminary sentence of motion number 2 appears to be in the form of

an interpretation provision, what follows is a list of prohibitions and objectives to be observed in the administration of the act."

This, Madam Chair, is the exact sort of case and has now been incorporated into Beauchesne. I'll quote the section for you in a moment. It seems to me that this is the exact case we now face, where section 2 is to be struck out, which is part of the clause, and we have substantive provisions which go beyond the scope of the interpretation section that have nothing to do with the interpretation of the act. They are a list of provisions and objectives to be observed, really, in the administration of the act itself, which is another part of schedule A.

Beauchesne on page 208 — I refer this for the clerk and the Chair — and subsection (10) has incorporated this, says, "A substantive amendment may not be introduced by way of a modification to the interpretation clause of a bill." I gave you the background to that, one of the bases in which Beauchesne identifies his precedents. This is also in the Journals of the House of Commons, likewise in terms of Lamoureux's ruling, which we have here.

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I know that the government purports to amend section 2 of schedule A, which is found here. But section 2 of the bill is an interpretative clause. The government motion is a substantive amendment in both form and substance. It deals with the list of provisions and objectives to be observed in the administration of the act, not in the "Definition" section here.

A further point related to clause (f) — I think the member from Hamilton dealt with that one already, but just to reiterate it — is that the government's amendment makes reference to a section of the Labour Relations Act, section 40, that was not to be part of the original Bill 136. It is a new provision. It doesn't amend a section of Bill 136 and it is beyond the scope of this particular section in the bill.

The Chair: Thank you. Further comments or questions on this?

Mr Maves: Schedule A, as you will see, starts off by striking out a definition of part 2 and replacing it with an application section with regard to arbitrations, specifically purpose clauses of the act. Once that's struck out — the definition was needed previously because "collective agreement" wasn't defined in the Police Services Act and it appears in much of the rest of sections 3 to 16 with regard to the Dispute Resolution Commission. That's why it was no longer needed on the elimination of the Dispute Resolution Commission and the references to collective agreements throughout, from 3 to 16, so it has been struck out and replaced with an application section.

What we've done, Chair: For instance, at the top of page 18 you'll see point 6, where we have clearly said that purposes set out in section 1 will apply in the case of arbitrations in the Fire Protection and Prevention Act. On page 21 of the bill we've said the same thing with regard to the Hospital Labour Disputes Arbitration Act, and so on with regard to the other acts, so we've clearly stated previously in the initial Bill 136 before amendments that it was the intention that this purposes clause be considered

in each of those acts. We've simply brought this together in one section, in section 2.

Clause(f) is relevant and applies because there's a thematic connection in the rest of the bill in that these are broader public sector employees that are a part of the amalgamations we're talking about. So the purposes should also be considered, obviously with regard to them as the broader public sector employers. There is that thematic connection in clause (f), so in my opinion it's very much in order. All this was really in the bill already. We've just kind of collaborated it and put it into section 2.

Mr Patten: I don't necessarily disagree with this. I just think it's in the wrong section. According to Lamoureux's ruling and Beaudesne you can't do that. This may very well stand on its own and be a good thing to do, but it should come under the administration section. It shouldn't be in the purposes or the definition section in the interpretation section — they're quite clear — or even in the complementary section. Our point is that it's just not supportable in that particular section of the act. It clearly gives direction and advises on how an arbitrator should behave and what he or she should do. That's not a definition. That's an administration direction or guideline.

Mr Christopherson: A couple of quick things. I would again draw to your attention the fact that notwithstanding the arguments the PA makes about (a) to (e), because I'm not sure that stands alone, it certainly doesn't stand when we get to (f). It can be as thematic as he likes, the fact is that under the rules of what you can do by amendment and what you can't do, we make the case that this clearly is an attempt to amend through the back door. They're also attempting without really amending. I would strongly make the case that none of this bears any kind of relationship to what was clearly the intent of "Definition" under section 2 of schedule A and believe very strongly that you have no alternative but to rule all or part, which would have the same effect, of this amendment out of order.

Mr Patten: Were you able to capture that statement on Beaudesne?

The Chair: Yes, subsection (10). We have that.

Mr Patten: "A substantive amendment may not be introduced by way of a modification to the interpretation clause of the bill," which is where this is. All of these sections can be fully dealt with, completely, under the complementary amendments sections.

The Chair: Further comments? With your indulgence, colleagues, I would like a five-minute recess to confer with the clerk and the legislative counsel on this matter.

The committee recessed from 2107 to 2118.

The Chair: Colleagues, the committee is called to order, and I was asked to — Mr Newman?

Mr Newman: Can I ask for a 15-minute recess?

The Chair: I must confess, colleagues, this is a very complicated ruling you've asked me to make and I haven't got my decision made yet, so a recess would be a good idea. However, I am mindful that we are at 9:20, which means we would then be recessed for the remainder of the day, and that means adjournment.

Mr Christopherson: If you need until five minutes after, we can wait five minutes.

The Chair: I would appreciate the time, if that is not a problem for you.

Mr Newman: It's 9:19 right now.

Mr Christopherson: If I can, Chair, the request was for 15 minutes, which really is out of order because there aren't 15 minutes left. But if you need upwards of 15 minutes I would be quite prepared, certainly as one member representing one of the three parties, to remain here the extra five minutes to hear your ruling. This is a very important ruling to us.

The Chair: Why don't we reconvene just before 9:30.

Mr Newman: On a point of order, Madam Chair: The committee sits until 9:30 and I have an appointment and a call to make —

Mr Christopherson: What are you afraid of?

Mr Newman: I'm not afraid of anything.

Mr Christopherson: You can go. They've still got a majority.

Mr Newman: — but I have a couple of calls to make back to constituents and I think it's important.

Mr Christopherson: You've still got four votes. Go. You left before and we had only three and we did just fine, so go.

Mr Newman: It says till 9:30 and that's the time —

Mr Christopherson: Go. Go make a health speech. Practise in the mirror.

The Chair: The only way we could have a recess that is within the standing orders would be to have a motion to that effect at this point in time, according to the standing orders.

Mr Newman: Okay, I would move that we have a 15-minute recess.

The Chair: All right. There is a motion on the floor, then. Any further discussion?

Mr Christopherson: I'd like to ask you a question. Given the fact that that takes us past 9:30, are you still going to bring us back at that time and give us your ruling? If that's the case, I have no problem. If the government is trying to stall and avoid getting a ruling from the Chair, I have a great deal of trouble.

The Chair: The difficulty is that pursuant to the time allocation motion we can't go beyond 9:30.

Mr Christopherson: Then the motion is out of order, I would think. If he asked for a two-hour recess, would you give it to him?

The Chair: Hang on. One at a time. We'll go to Mr Patten.

Mr Patten: I believe the motion is out of order because it goes beyond the time we have allocated to sit, so it's not a recess at all. It effectively becomes an adjournment, so I believe it's out of order.

The Chair: I want to make sure we get this right. We can't sit past 9:30 because of the time allocation motion. A motion can be made for a recess. That's perfectly in order. If we're about to make a vote and you yourself called for a 20-minute recess, that would be granted automatically and wouldn't be considered an adjournment. It

would be considered a recess and we would move into the next day's proceedings.

I don't think this is any different. It wouldn't be considered an adjournment in the middle of the day. It just happens to be happening at this point in time.

Mr Christopherson: No problem, Chair, I just wanted to be clear that at the end of the 15 minutes you are going to bring us back together and give us your ruling.

The Chair: But I can't after 9:30. Herein lies the complication.

Mr Christopherson: Then how can you give him a recess? Clearly, he's trying to run the clock. What's the point of a recess if we don't come back after the recess? He's trying to adjourn the meeting. The difference with a vote is that you can come back and vote and do something.

The Chair: The standing orders do not include a motion being on the floor for a recess, and if that motion passes —

Mr Christopherson: Then we don't have a motion.

The Chair: — that's not the equivalent to an adjournment; that's a motion for a recess.

Mr Christopherson: On a point of order, Madam Chair: I'd like the ruling that you asked for five minutes to determine. You called us back to order. I assume you have a ruling for us. I don't know why we're dealing with this. All I want to hear is the ruling.

The Chair: I haven't had a chance to finish. It's more complicated than I had anticipated and I haven't finished my determination. If Mr Newman weren't moving this, I would be moving it. I would be seeking your consent to allow me time to properly consider the request you've put before me.

Mr Patten: How much time do you need, Chair?

The Chair: I don't know; 15 to 20 minutes, maybe, something to that effect. Mr Newman.

Mr Newman: We're sitting this evening under prescribed times under the time allocation motion, which clearly spelled out when the standing committee on resources development would meet and the various days and times. Whether it be today, sitting from 3:30 until 6 — it didn't say from 3:28 to 6:01 or 3:27 to 6:02. What it dealt with was 3:30 pm to 6 pm, and then the standing committee on resources development again would meet from 7 o'clock, not 6:59 or 7:01 or 7:02 or 7:03, but 7 o'clock, that's 7 pm, until 9:30, not 9:29, not 9:28, not 9:31, 9:32 or 9:33 or any other time. It clearly spelled out when the committee would sit, when it was eligible to sit.

I think of all the other days we had committee hearings on this and listened to people, listened to the various groups like the Ontario Hospital Association and CUPE, and we had Sid Ryan and Judy Darcy in the other day, and I thought they would have agreed with all the changes that have been brought forward to Bill 136. When I look at the time allocation motion, which was debated in the House, and all parties had an opportunity to comment on it, that time allocation motion dealt with the specific times this committee could meet.

Some days there are three shifts of this committee. There's a morning shift from 9 o'clock in the morning

until 12 noon, and that wasn't 8:59 or 8:57, although I know we wanted to get started as quickly as we possibly could. But we weren't able to do that because the time allocation motion said 9 o'clock — not 9:01, 9:02, 9:03, 9:04 — 9 am until 12 noon, so during that three-hour period, which was the first shift, that's when we had to deal with Bill 136, during that time frame, and then in the afternoon the second shift of the committee, which was right after we finished question period.

The Chair: Excuse me. We'll move to Mr Christopherson for a minute.

Mr Christopherson: Thank you, Chair. Clearly, Mr Newman is attempting to run the clock. It doesn't take a rocket scientist to figure that out. What I would like from you, and please do not take this as a personal insult — I don't mean it that way. I would ask this of whoever was in the chair right now. We're in a rather unusual situation. I think you're beginning to understand the seriousness of the point of order we raised on this matter. We all understand the implication for the government's legislation. This is a very critical moment.

With that in mind, we're about to adjourn and go off to the wind. Unlike the Speaker, Chair, you're not elected, you're appointed as one of the government's lineup of appointments they can make. Although you're trying to be as fair as possible, and again please don't take this personally, I would like your assurance right now that you will have no discussion with anyone outside the clerk's department or legislative legal staff without the presence of the two other opposition parties between now and when you render your decision.

The Chair: Oh, I see. Mr Christopherson, when I recessed at 9:10 to review this, I didn't think it would take me as long as it's taken me to go through this. It is 9:30 and it is time for us to adjourn, and you have my assurance that I will not discuss this with anyone in any caucus without the other members present. I will consult with the clerk and with the legislative counsel on this matter.

Mr Christopherson: I accept your word on the matter. Thank you, Chair.

Mr Hardeman: On a point of clarification, Madam Chair: My understanding was that the Chair of the committee was elected in exactly the same manner as the Speaker of the House.

Mr Newman: Same as Floyd Laughren was elected in government agencies.

The Chair: Yes, and there is a point I'd like to make as someone who has to make the decision. Speaker Stockwell has from time to time been asked to make a ruling, has gone out, considered and come back and said, "I need more time on this one." That's how I feel at this moment in time.

Mr Christopherson: Your position is different from the Speaker's. I just wanted the assurance I need so I can sleep this evening and you've given me that.

The Chair: Sleep well. Colleagues, we are adjourned until tomorrow at 3:30.

The committee adjourned at 2129.

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Mardi 30 septembre 1997

**Standing committee on
resources development**

Public Sector Transition
Stability Act, 1997

**Comité permanent du
développement des ressources**

Loi de 1997 visant à assurer
la stabilité au cours de la transition
dans le secteur public

Chair: Brenda Elliott
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Tuesday 30 September 1997

Mardi 30 septembre 1997

*The committee met at 1529 in committee room 1.*PUBLIC SECTOR TRANSITION
STABILITY ACT, 1997LOI DE 1997
VISANT À ASSURER LA STABILITÉ
AU COURS DE LA TRANSITION
DANS LE SECTEUR PUBLIC

Consideration of Bill 136, An Act to provide for the expeditious resolution of disputes during collective bargaining in certain sectors and to facilitate collective bargaining following restructuring in the public sector and to make certain amendments to the Employment Standards Act and the Pay Equity Act / *Projet de loi 136, Loi prévoyant le règlement rapide des différends lors des négociations collectives dans certains secteurs, facilitant les négociations collectives à la suite de la restructuration dans le secteur public et apportant certaines modifications à la Loi sur les normes d'emploi et à la Loi sur l'équité salariale.*

The Chair (Mrs Brenda Elliott): Good afternoon. I call the meeting to order for the purpose of considering Bill 136, the Public Sector Transition Stability Act, 1997. We meet again this afternoon for clause-by-clause consideration.

Before we resume, I want to remind all members that, by order of the House dated Wednesday, September 17, 1997, at 5 o'clock today those amendments which have not yet been moved are deemed to have been moved. The Chair is then required to interrupt the proceedings, regardless of where we are with the amendments. At that time, there shall be no further amendment or debate and the Chair will, "put every question necessary to dispose of all remaining sections of the bill and any amendments thereto. Any divisions required shall be deferred until all remaining questions have been put," and taken into consideration. The Chair may allow only one 20-minute waiting period, if requested, pursuant to standing order 127(a).

When last we left off, I was to bring back to you a ruling on the government amendment found on page 14. I listened very carefully to all the arguments that were placed before me and the members of the committee yesterday as to whether this amendment is out of order, as to

whether it's outside the scope of the bill and if it seeks to open unrelated areas.

After careful consideration, I find that this motion is not unreasonable or unusual. It does not directly seek to open up or amend sections of other acts. In fact, the effect of this motion is not to amend the definition section but to replace it.

Beauchesne refers to a substantive amendment to the interpretation clause of a bill. Bill 136 does not contain an interpretation clause. This amendment contains no prohibitions or objections and refers to purposes already stated. More importantly, it has long been the accepted practice in the Ontario Legislative Assembly to accept proposed amendments to definition sections. Therefore, I rule this amendment is within the scope of the bill and is in order.

I would just remind members that the decision of the Chair is not debatable, but I would invite further discussion on this amendment before I put it to a vote.

Mr David Christopherson (Hamilton Centre): I want to express my extreme disappointment. By all accounts, most of us felt this was a very valid point of order, and it's very disappointing to see that there's not an edge in here anywhere for opposition; there doesn't seem to be a role for opposition. We had hoped that you, playing the traditional role of being impartial, would have given a little more weight to the arguments that we made, given that we think they were clearly substantiated by both Beauchesne as well as the tradition of this House.

I think anyone who takes a look at the amendment and what it amends will recognize that what they're seeking to do by this amendment is clearly a move through the back door, and that they are seeking to amend without really amending anything. It's very disappointing, Chair, and I can only say to you that, given the fact that we've got less than an hour and a half left — and I'm not going to bother appealing it. The government's got the majority votes. They're not going to support any kind of an appeal, and we have to get a majority vote to appeal it to the Speaker, which is unfortunate, because I'd be prepared to bet, with odds, that we could get a different ruling elsewhere.

However, I want to point out that at this stage of the game we've got some 202 total amendments. We've done 14 so far. There's no way we're going to get through them all today and that means that, like Bill 99, this government is going to just ram these things through with no opportunity even for opposition input. Mr Sewell was here yesterday wanting to know when the public could speak. He was

shut out of it, as is every other member of the public on what virtually is a brand-new Bill 136. Now, by virtue of the ruling you've made and the time allocation motion, we're pushed to the sidelines too.

There's no role for the opposition here; there's no role for the public here. The only role that matters is whatever the government wants. With rulings like yours, Chair, I say with respect, it just makes it that much easier for them to steamroll right through. Why we bothered having these sham hearings, I'll never know, other than the politics of it were such that we had to be here as much as we could to defend the rights of those who are being attacked here.

We spent, what, two hours last night talking about pay equity alone. Although the government is making a lot of noise about taking away two out of the three, the one aspect of the pay equity legislation that's being left in 136 opens the door, where legally it wasn't possible, to women receiving less wages than they get now — and we're talking about the lowest-paid workers in our province. We had a chance to talk about the employee wage protection plan, where the government is gutting and eliminating that protection for workers who are facing bankruptcies and closures, and there are still other aspects of this bill that, whatever the minister tries to spin, are not good news and don't make things better. They're just the lesser of all the evils. We're not even going to get a chance to comment on those, Chair.

We're not going to get a chance, once we hit 5 o'clock, to have one word. I know for a fact that the government backbenchers will be voting on amendments that they have not read and thought through, because there hasn't been the time. We haven't been able to do it. There hasn't been the time to consult with the legal experts and the labour experts who could advise us of what the concerns ought to be — because we're not the experts; they are. All that has been shut down by this government ramrodding this thing through and completely ignoring the democratic rights of the citizens and now ignoring the democratic rights of other elected MPPs.

It's a shameful, disgusting, arrogant display of anti-democratic procedures the likes of which have never been seen before in this province. Although I may have comment from time to time as we go through the last hour and a half, almost, of this charade, I have no intention of participating in any more voting, because this is all just a joke.

Mr Richard Patten (Ottawa Centre): I appreciate being in the sunlight, but Madam Chair, I'm really disappointed with this. I know it's not debatable, but you did say discussion. It's quite obvious to me that the section is first of all withdrawn, struck. You had a little paragraph which had five lines replaced by a page and a third or a page and a fifth, over a page, of additional references related to arbitration.

The first definition had to do with collective agreements; this one talks about arbitration. It lists six different sections. It then gives direction as to what arbitration must do and take into consideration, which means to say it

shouldn't be in the definitions at all; it should be in a couple of other sections.

I have a hard time swallowing this particular decision. Likewise, I will not ask for an appeal, although I feel there should be one — as a matter of fact, I think I will ask for an appeal to the decision, because I just find this one so obvious and so flagrant, related to the points we made yesterday and the references we made, that this section would come under "Definition" when it starts off with "Arbitrations." The other one starts off with "Collective agreement." Those are two separate issues, even.

The purpose has changed; the substance has changed. It has substantially changed, and I would ask for an appeal on this. I share my colleague's view of, how could we ever justify saying that we have a democratic process when 150 pages are dumped on the committee, knowing full well that we'll never get through a quarter of them? I've received some phone calls to my office by some lawyers from other parties who are affected by this particular legislation, and there are problems with some pieces of it.

Even if we make some friendly amendments to some of the amendments the government has, to enhance or correct what's been drafted, you're going to end up with another bill coming back in any case, which has happened in the case of every major bill. The high risk of not taking the time leads to poor legislation, where you have to take extra time afterwards to introduce another bill to make an amendment to the original bill because you rammed it through and then it was found to have flaws in it. I submit the same thing will happen with this bill as well.

Madam Chair, it's with regret and with no personal intent on this, but on the basis of the principles I just referred to, I would ask the committee to challenge the decision.

1540

The Chair: You've heard Mr Patten's request, so I shall immediately put the question.

Shall the decision of the Chair be appealed to the Speaker? All those in favour? All those opposed? It is lost. Any further questions or comments on this particular section?

Mr Steve Gilchrist (Scarborough East): Reluctant as I am to lower myself to the level of what we've just witnessed here in the last few minutes, I think it has to be stated it is arrogance in the extreme.

We keep hearing the litany from the opposition members that somehow anything that happens in this building is undemocratic. Might I remind them that every one of them, as every one of us, is here precisely because of a very democratic election. You are charged with the task of representing the people in your riding. You are charged with the task of weighing all the various issues and you should be going back and canvassing the people in your riding and bringing their views forward.

At the same time you're protesting about the inability of the system to accommodate public input, you keep filibustering, and your filibusters have obviously denied everybody, including other members, the opportunity to actually speak to the amendments before us. It's no

different in every bill and it's no different in the House. You wonder why people might have the impression? They should know it's because the two opposition House leaders have absolutely refused to play ball.

We get very technical bills, such as the City of Toronto Act, version 2, that do absolutely nothing to change any of the issues that were raised under Bill 103, but of course we have to take the full time in the House and we have to take the full time in committee, rather than devote more time and resources to other bills — substantive bills, policy bills.

We would debate things like that ad nauseam just because the process allows that to take place. It is precisely because of that lack of accommodation, it is precisely because of that lack of cooperation in the Legislature and in committees that you see the results; namely, that we have no choice but to come up with time allocation motions because, as the NDP demonstrated far more times than we have, if there was no cooperation in any circumstance then, there's even less of it today.

As we sit here, I'm absolutely flabbergasted every time Mr Christopherson gets on his high horse and suggests that he somehow is the only person listening to people in this province, that he has a monopoly on compassion, a monopoly on intelligence, a monopoly on common sense. It's really unbecoming, Mr Christopherson. It wears a little thin after a while.

The fact of the matter is, all of us have constituency days. All of us meet with groups in our ridings. All of us, I believe, take the time to deliberate over the various choices that face us in here. When we do listen, the first phrase you throw out is, "You capitulated; you retreated," yet if we hadn't responded to changes, you'd have said we're ramming it through. It's kind of hard to come down on both sides of the issue, but you manage to do that almost every bill, Mr Christopherson, and it really is tiresome.

The fact of the matter is, on Bill 136, aside from one visit from some firefighters, I haven't had a single letter, a single phone call or a single visit from any of the 98,000 people who live in my riding. Given the amount of press, I would ask you, is it your submission that the people in Scarborough East don't know what they're doing? Is it your submission that, located as I am in the busiest mall, the busiest plaza in the riding, the people in Scarborough East are too dense to find my riding office, or they wouldn't show the initiative if they really believed all the fearmongering that comes from your lips and those of your colleagues? Or could it be that even the union officials in our riding who would be affected —

Mr Patten: On a point of order, Madam Chair: I believe we were discussing the issue that you focused on, and I don't see any discussion on it. We're talking about the process here and we're talking about a particular section that's before us.

Mr Gilchrist: I would — I'll let you rule, Chair, of course.

The Chair: I remind all colleagues that we are speaking to the bill. We are speaking to the amendment on

page 14 and I remind all colleagues to direct their comments through the Chair.

Mr Gilchrist: Precisely. Thank you.

To the same extent that neither of the two opposition members made any reference to the section before us, my comments are no more and no less applicable. The fact of the matter is, you get on your soapbox and you think you're the only one entitled to do that. Let me remind you, you've got one third of the seats in the Legislature and the fact that the process is set up here that you get two thirds of the speaking time clearly proves that there is fairness.

There's a greater balance in favour of the opposition parties in here and in the House, and time and time again you would suggest to the people watching or anyone who reads Hansard that somehow you're constrained, that you don't have the same ability and you don't have the same powers and rights that we have to go out and meet people and hear what they have to say and have the same resources. I'd remind you that your research budget per capita is infinitely larger than the government members' and even more so for Mr Christopherson. In fact, it's somewhere in the neighbourhood of four times as great per member.

They've had this bill since June 3. Their amendments were tabled at the same time as the government ones — not exactly one or two. To suggest that the volume of amendments somehow undermines the process is quite an insult to the people who take the time to comment. I'd remind the member that in the Tenant Protection Act that just went through here a couple of weeks ago, the government successfully made 100 amendments to that bill. I don't recall a hue and cry that we gutted the original bill. I'd remind him also that we accepted five Liberal amendments and one NDP amendment.

Clearly, we're not only prepared to listen to the people who have come before the committee and reflected them in amendments, we're even prepared to listen to you and to Mr Christopherson and your colleagues. That's the track record. There has never been a piece of substantive government legislation in two and a half years that hasn't seen government amendments to the bill.

I would argue that many times from sheer volume alone, the fact that we have been listening, the fact that we've held more hours of hearings than either of your government did between 1985 and 1990 or Mr Christopherson's did in 1990 to 1995, more hours of hearings for fewer bills — the facts speak for themselves. The amendments are a reflection of the fact that we do listen to the people who come before the committees, we listen to those who write, who phone and who fax us. To suggest otherwise is nothing more than a political rant.

You've wasted the time of this committee now for a day and a half without any real content, and I think it's appropriate to put on the record that the government members are just as open and accessible. We believe, obviously contrary to you, that the day of the election was the ultimate expression of democracy in Ontario and for the next four years you and I are charged with the responsibility of carrying out the legislation, the

legislative duties and the governance of this great province.

Mr Patten: Exactly.

Mr Gilchrist: To suggest that somehow there's to be a different standard applied just because you don't agree with some bill is utterly fraudulent.

Mr Patten: Just because you got elected, you think you can do whatever you want, however you want. Don't talk to me about arrogance.

The Chair: Order, please.

Mr Gilchrist: You guys have a monopoly on that. Those are my comments, Madam Chair.

Mr Christopherson: Very briefly, because we've been around this a number of times. In terms of who has not been in to see Mr Gilchrist in his constituency office, perhaps they saw his performance on the megacity and watched him try to defend that undemocratic process and realized that, "At that level of arrogance, we're going to cast the word around: 'Why bother going to see him?'"

This is not a guy who's prepared to listen to anything other than what the cabinet members tell him, because he's so hell bent for leather that he's going to be a cabinet minister that he's prepared to roll into any committee that somebody from on high sends him into, to play the pit bull routine. The effect of that is that the public very much knows who you are, and of course in the House the word is out too. Your own caucus colleagues consider, among that bunch, that you're one of the most arrogant there.

I don't know who you think you're kidding by rolling into these committees every now and then and pretending like you're Mr Tough Guy who's going to take on the opposition and show them — because that's exactly what you attempt to do, and it's so transparent. You may fool a few of the folks, but anybody who's been around here for a while or just listens to other government caucus members will know clearly what's afoot.

1550

Let's remember, this was a government where under Bill 26 we had to — and I wasn't proud of the fact that we had to, but I was proud after the fact that we did it — hijack the Legislature in order to get some semblance of decent public hearings on that huge bully bill, the omnibus Bill 26 that you tried to ram through, and even then that wasn't nearly enough. You didn't learn your lesson.

This is the same government that brought in Bill 49, where you took away rights from people who don't have the benefit of a union or collective agreement in the Employment Standards Act. What was it the minister said? "These are minor housekeeping amendments, just a little bit of nuts and bolts, a little bit of minor housekeeping," and when we called her for what it was, you caved again, because public pressure was such that you had to. We got four weeks of province-wide public hearings, and we whipped your ass in every one of those communities, because you couldn't defend the argument that it was nothing but housekeeping.

Let's go on. Then what happened with Bill 99? We had all kinds of commitments from the junior minister at the time and then from the Minister of Labour herself that

there would be province-wide public hearings. When we got four weeks of province-wide public hearings on a bill that your government said was minor housekeeping, we assumed that we could take you at your word that on takeaways and a tax on injured workers in Bill 99 we would get at least that much and arguably more. What did we get? Six measly days across the province, and you did that in the dead of summer. What happened again? We whipped you in every one of those communities too. We had standing room only, crowds in there with banners and hats and buttons, we had media and marches, and that was just the tip of what we could have done, but because you're a bunch of cowards, you wouldn't go any further.

When we got to Bill 136, you rammed through your time allocation motion the other day, and then, for some bizarre reason, got up the next day and ran up the white flag. I'll still never understand the idiotic politics of that one. Then, because you were such cowards, you did this hokey teleconferencing at the last second, which was meant to honour the commitment of the minister to do more province-wide public hearings, and you broke that promise too. Not one person has had a chance to make a comment on these amendments that virtually gut the bill in a way that no other bill has been gutted before. We're at number 14. We've got 202. We've got an hour to go, and after that, the opposition gets shut down too.

I can tell the member for Scarborough East and any other member of the government caucus that if you think you are going to be able to defend this process around Bill 136 and suggest that this has some kind of fairness or democracy to it, you're kidding yourself, and the list grows.

I'll end my comments by pointing out that all of this around Bill 136 took place after the government changed the rules of the House and gave us the most stringent, airtight, ironclad, anti-democratic rules that exist anywhere in this country. When the government argues, "This particular clause is in this legislature," or "This clause is in the House of Commons," they like to cherry-pick. If you take the total control that this government has given itself by virtue of House rule changes and taking away legislative decision-making and putting it into the cabinet room through regulations, there has been a usurping of the power from the people to the élite in that party that is unmatched in the history of any Legislature, not just this one.

It's very difficult and very stressful, I might say, to listen to people like Mr Gilchrist and others — and fortunately, there aren't too many others; there are enough other Tories who have brains enough not to make those kinds of silly arguments and put themselves forward because they have enough self-respect to realize that any objective analysis clearly shows, whether you agree with our arguments or not, at the end of the day you can't defend these processes and say that they have been democratic. You, it would seem, Mr Gilchrist, either march to a different drummer or do not have the political sophistication to realize that's the smart way to go. But you live by

your rules and we'll live by our rules, and I'm quite prepared to see what happens at the end of the next election.

Mr Bart Maves (Niagara Falls): I don't want to belabour this any further, but I do find it a little odd. Mr Christopherson is well known for making speeches and going on at some length about democracy and procedures, and I think it's a little unfair of him to all of a sudden get so agitated when someone else wants to speak to that same issue in an opposition view from his. However, I'm not going to go into that in great detail. I want to reiterate, though, that this government, and we have said this before, has had more public hearings, more hours and more time on public hearings on fewer bills than either of the two previous governments, and that's perfectly clear.

I also want to say, with regard to the number of amendments, while there are several pages in this package, out of the next 20, I believe one is an amendment; the rest are one or two of the parties recommending voting against a section. They are not really even motions. They are out of order. They are just recommendations. I think that bears mentioning.

Lastly, in fairness again to Mr Gilchrist, I have never heard a member of my own caucus issue any disparaging remarks against Mr Gilchrist in the manner in which Mr Christopherson has implied. I thought that was unfair and actually unparliamentary of him, and I wondered if he wanted to withdraw those remarks. Those are all the comments I have.

The Chair: I'm going to interject at this moment to say I would ask all members of the committee to speak to the amendment at hand. I remind them to consider their parliamentary language and to address their comments through the Chair. With that caution, we then move to Mr Gilchrist.

Mr Gilchrist: Precisely in that vein, it's quite remarkable, as we look at the sections before us right now, that the original wording under "Collective agreements" was a six-line clause, the last line of which was "and such other agreements as may be prescribed," quite open-ended. It is proposed to be replaced with something in extraordinary detail, something that would make it very obvious to anyone, and you wouldn't need a legal background to see that instead of something as open-ended as "such other agreements," it goes into extraordinary detail to list precisely the terms and conditions that would apply. I think this is the spirit and the direction that the overwhelming majority of the government amendments have taken.

Again, it is somewhat ironic, given that their party of choice is so virulently opposed to these amendments, that Mr Ryan and others seem to find favour with these amendments. They have called off their threatened illegal strike. They have certainly suggested that the process had worked. If they want to use terms such as, "The government retreated," or "They backed down," or whatever, that's fine, but at the end of the day, again, it's fairly irreconcilable to suggest on the one hand, as Mr Christopherson did, that we are ramming everything through without listening, and yet, on the other hand, to have Sid

Ryan and others suggesting that we retreated and, to use Mr Christopherson's words, that we are cowards.

It really is something so extraordinary, that you go through a process, you deal with the stakeholders who claim, as I commented, that they represent certain constituencies when they sit here before us — Mr Ryan and Ms Darcy and others — and they tell us that they speak, in the case of one, for 180,000 and, in the case of another, for 440,000 workers in this province. The NDP have always suggested that somehow the union leaders, these bosses, whose salaries and perks are unknown to their own members, whose pay would not suffer if an illegal strike was to take place — they don't go out on strike; they don't lose anything, but they ask others to — that those people, when they come before us, somehow don't speak. Again you have two completely contradictory points of view coming out of the same mouths on the other side.

I'd like to believe Mr Ryan and I'd like to take him at his word when he said that the process did work. I would also like to take him at his word back on August 18, on CFRB, when he said that if the government was serious about the accommodations the unions had requested, he would guarantee — he used the word "guarantee" — labour peace.

They have followed through with that. At least as it stands right now, the threats have been taken off the table. I hope this bodes well for future negotiations, that in the future when bills are introduced on June 3, they won't wait till the day after Labour Day and the chance to have a soapbox and to exploit certain criticisms of this bill and instead in a far more timely fashion will sit down when the offer is made by the ministers, as it was back in early July. We could have resolved all of these things literally months ago. That would have pre-empted an awful lot of the ill-founded concerns that were fomented by certain parties across this province and by certain opposition members.

1600

The fact of the matter is, the minister made it very clear back in early July that she was prepared to sit down, she was prepared to deal face to face, she was prepared to listen to the comments and the suggestions and the criticisms of the union leaders, and we've done that. I think the section before us is proof positive.

I'm not going to belabour the details in section 2, but I must say that as we look at this section and the overwhelming majority of the amendments to follow, what we have done is to reflect completely, in most cases, the wishes of the stakeholders while still sticking to our goals of ensuring that there is a process in place for an orderly transition during municipal restructurings, hospital restructurings and school board restructurings.

I believe that by adding further definition, as we have in this section, section 2 that's before us, it will be far easier for the various unions and their locals to understand their rights and responsibilities. It will be easier for arbitrators to undertake their tasks, should it go that far. I think it is genuinely an improvement to the bill.

I anticipate that the opposition members will not support this, but it really defies understanding why, even if they disagree with the intent of the whole bill, when you go through clause-by-clause and you make significant improvements, they still dogmatically follow their path of objecting to everything the government does instead of a more appropriate path, to criticize where appropriate but agree, similarly, where that is the proper course and where it reflects the views of their own constituency and the people they claim support them, namely, the union leaders.

Mr Christopherson: Just very briefly to correct the record so that we keep facts up front rather than myths, the fact is that I'm not aware of a single union constitution that doesn't provide for the explicit expression of what the top leadership of a given union makes, and it's there for every member to see. In fact, it's the members who vote on it at convention. I would suggest that the Tory government, as run by Mike Harris, should be half as democratic as the labour movement in this province.

I would also point out that in the case of the OPSEU strike, which was forced and foisted upon the OPSEU members by this government's Bill 7, Leah Casselman, the president of that union, did not take any pay for exactly the same length of time as every one of her members. If you want to start attacking the unions and trying to make them evil, at least have the decency in this place to use the truth.

The Chair: Other questions and comments on this amendment? Seeing none then, I put the question. For the government amendment on page 14, shall this amendment carry? All those in favour? Opposed? It's carried.

Any further discussion on schedule A, section 2? Shall schedule A, section 2, as amended, carry? All those in favour? Opposed? It carries.

Schedule A, section 3: Any comments or questions or discussion on that section? Seeing none then, shall schedule A, section 3, carry? All those in favour? Opposed? It's lost.

Schedule A, section 4: Any comments or questions? Seeing none, shall this section carry? All those in favour? Opposed? It's lost.

Schedule A, section 5: Any comments or discussion? Seeing none, I ask the question, shall schedule A, section 5, carry? All those in favour? Opposed? Lost.

Schedule A, section 6: Any comments or questions? Seeing none, shall this section carry? All those in favour? Opposed? Lost.

Schedule A, section 7: We have an NDP amendment on page 24.

Mr Christopherson: I move that subsection 7(1) of the Public Sector Dispute Resolution Act, 1997, as set out in schedule A of the Public Sector Transition Stability Act, 1997, be amended by striking out paragraph 3.

Paragraph 3 of course is the power to send the end of negotiations to final offer selection or to a mediation arbitration over the objections of the parties. We heard from presenters on this part of the original Bill 136. I believe we heard from both sides, particularly around the final offer selection, both employers and employee repre-

sentatives, but certainly every employee representative made it very clear that contrary to the government's belief: that sending it off to final offer selection would be a disincentive, forcing people to negotiate, they saw very much — and I see that Bruce Carpenter from the firefighters is here, and he was one of those who made the case — that sending something in this fashion — I believe it was Bruce who was one of the ones who made that argument — was going to do much more harm than good. The Hards on that are there.

This is one of those residual parts of the bill that continues to give union representatives difficulties. I grant you, in the broader context of things, there's obviously not going to be a general strike over this one particular clause, but the government and the public ought not to be under any illusion that just because there isn't a general strike everything that's left in Bill 136 is warmly embraced by the labour movement, because it's not.

This in particular is one of those clauses that, should the government ram it through today and should they use the power that they're authorizing here, is going to cost down the road in terms of labour relations. There's going to be a price to be paid, and the price is going to be less efficient and less successful labour negotiations and more labour disputes and possibly disruptions as a result of this heavy-handed approach to resolving differences between the parties. Our caucus is tabling a motion that would remove this from the bill.

Mr Maves: This amendment would amend section 7, allowing the chief commissioner of the Dispute Resolution Commission to make an order specifying the method to be used to resolve a dispute. We've just voted and we're going to continue to vote as we had said we were going to quite some time ago, against establishing the DRC and the chief commissioner and, therefore, a chief commissioner of a DRC's authority to make such an order. I want that to be clear, that the government is going to vote against this section in its entirety.

However, I just think I'll put on the record that the rationale behind having final offer selection as a choice of procedure will appear in the amended bill. The rationale for that which we put forward is simply that in order to encourage parties to collectively bargain, it was felt that having the option of final offer selection as a possibility would be a deterrent to both parties just turning over a dispute to a Dispute Resolution Commission or to an arbitrator and would in fact encourage collective bargaining.

I know Mr Hudak spoke to this at length with some different hospital unions and perhaps even the OHA. The HRPPO, the Human Resources Professional Association of Ontario, spoke positively about this. So we do have final offer selection remaining in the bill as a choice of procedure for an arbitrator.

1610

I do want to say, however, that we have made it a little difficult to get there in the sense that later on in the amendments to the bill we are requiring mediation to occur first. That speaks to the desire that disputes be

settled by the parties themselves in the collective agreement process, and if need be with the help of a mediator, before they would get to a position like this. I just wanted to make those arguments before we voted.

Mr Christopherson: I have a final comment, just to point out that the government members in the past have said, "Well, you haven't put your amendments in, so why should we put our amendments in?" Of course, the fact of the matter is that the government drives these things. To point out just how ridiculous this process is and how much credence there is to our argument that you've gutted the whole bill, anybody who had the bill in front of them and had lines like I do of all the sections that are being eliminated because you've gutted the bill — it just goes on for pages; watch them all vote against their own amendments — it puts me and my colleagues from the Liberal Party in the ridiculous position of arguing in favour of amendments that modify Bill 136 when two amendments later the government plans to vote and eliminate the entire section.

Now, that does happen from time to time. Normally it's seen as good news and you go on from there. Our point all along has been that you've gutted the bill so much that there's no relationship any more between what you proposed to do in Bill 136 and what you'll end up having after we go through these amendments that nobody has had a chance to comment on.

So I want to suggest to you, Chair, that in order to not waste any more time than necessary, where there's a particular principle to be made, particularly where that principle still resides in the new Bill 136, I may comment, but by and large I'm not going to spend a great deal of energy arguing about certain clauses within sections when two amendments later it's the government's intent to wipe out their own original legislation.

Mr Maves: I'd just like to say that I understand the position Mr Christopherson is in, and I appreciate that while beforehand we said we were going to make the changes such as removing the DRC and most of the sections we're talking about now, establish or talk about how the DRC should conduct its proceedings and so on and so forth, we said we would remove them, I understand that he felt it was still incumbent upon him, in case we did not remove them, to have these amendments to make changes to that. I understand that difficulty, but I also felt it necessary just to speak about the government's rationale for having final offer arbitration selection. That's why I made those comments.

The Chair: Any further comments on this section of the bill?

Mr Maves: This amendment.

The Chair: Sorry, this amendment. I apologize. All right, seeing none, I put the question. Shall this amendment carry? All those in favour? Opposed? The amendment is lost.

We now have another NDP amendment on page 25. Mr Christopherson.

Mr Christopherson: For the reasons I've already mentioned, Chair, I will just read it and then we can move to the vote, as far as I'm concerned.

I move that section 7 of the Public Sector Dispute Resolution Act, 1997, as set out in schedule A of the Public Sector Transition Stability Act, 1997, be amended by striking out subsection (2).

This of course refers again to forced final offer selection.

The Chair: Is there any discussion? Seeing none, I put the question. Shall this amendment carry? All those in favour? Opposed? It's lost.

Any further comments on schedule A, section 7? Shall schedule A, section 7, carry? All those in favour? Opposed? It's lost.

Schedule A, section 8: Any comments on this schedule? Seeing none, I put the question. Shall schedule A, section 8, carry? All those in favour? Opposed? It's lost.

Schedule A, section 9: Comments or questions? Seeing none, shall schedule A, section 9, carry? All those in favour? Opposed? It's lost.

Schedule A, section 10: Questions or comments? Seeing none, shall schedule A, section 10, carry? All those in favour? Opposed? It's lost.

Schedule A, section 11: Any comments or questions? I put the question. Shall schedule A, section 11, carry? All those in favour? Opposed? It too is lost.

Schedule A, section 12: Questions or comments? Seeing none, I put the question. Shall schedule A, section 12, carry? All those in favour? Opposed? It's lost.

Schedule A, section 13: Questions or comments? Shall schedule A, section 13, carry? All those in favour? Opposed? It's lost.

Schedule A, section 14: Questions or comments? Seeing none, shall schedule A, section 14, carry? All those in favour? Opposed? It's lost.

Mr Maves: Chair, could I just have one minute?

Mr Christopherson: What amendment are we on?

The Chair: We just finished section 14.

Mr Christopherson: What amendment number?

The Chair: It isn't an amendment.

Mr Maves: It's a recommendation.

The Chair: Oh, sorry, I haven't been following those recommendations. Just one moment. I'll refer to the page from now on, if that helps. We just dealt with page 41. We're now moving to page 42, referring to schedule A, section 15. Questions or comments? Seeing none, shall schedule A, section 15, carry? All those in favour? Opposed? It's lost.

Page 44, schedule A, section 16: Any questions or comments? Shall schedule A, section 16, carry? All those in favour? Opposed? It too is lost.

Schedule A, section 17, page 46: It's an NDP amendment. Mr Christopherson.

Mr Christopherson: I move that section 17 of the Public Sector Dispute Resolution Act, 1997, as set out in schedule A of the Public Sector Transition Stability Act, 1997, be amended by striking out subsection (1).

If I might comment, this speaks to the Fire Protection and Prevention Act, and again, because we didn't get a chance to see all the amendments that created a brand-new Bill 136, we're precluded from making any amendments

that we would like to make further regarding the whole area of fire prevention and the labour relations laws around firefighters, because after the government's amendments were tabled at 10 o'clock yesterday morning, we of course were faced with the same deadline, and we were prohibited from putting any amendments in after that. There's no ability, even by unanimous consent, under the air-tight time allocation, to change that. There's no way to offer up any amendments, so when it comes to any of these kinds of things that are changed, we in opposition have absolutely no opportunity to make any amendments and debate any alternatives, because we didn't know what they were going to be until after our amendments had to be in by deadline.

Of course, we don't even get benefit of the public. There's Bruce Carpenter, the president of the firefighters, sitting right here. Under your time allocation we can't ask him to come up and even give us five minutes' input on the changes that are made, whether they meet all his requirements or there are still some areas of concern. In fact, I know there are some areas of concern. He gets absolutely no opportunity. He's sitting nine or 10 feet away from that chair, and he gets no opportunity; and because of the process, we don't either. Then you tell me that you're listening.

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The Chair: Further questions or comments? Seeing none, I put the question. Shall the NDP amendment found on page 46 carry? All those in favour? Opposed? It's lost.

We now have a government amendment found on page 47. Mr Maves.

Mr Maves: I move that sections 50, 50.1 and 50.2 of the Fire Protection and Prevention Act, 1997, as set out in subsection 17(1) of schedule A to the bill, be struck out and the following substituted:

"Arbitration

"50. Where the minister has informed the parties that the conciliation officer has been unable to effect a collective agreement, the matters remaining in dispute between the parties shall be decided by arbitration in accordance with this part.

"Appointment of single arbitrator

"50.1(1) Where the parties agree to have the matters in dispute between them decided by a single arbitrator, they shall, within the time set out in subsection 50.2(1), jointly appoint a person who agreed to act.

"Single arbitrator's powers

"(2) The person appointed under subsection (1) shall constitute the board of arbitration for the purposes of this part and he or she shall have the powers and duties of the chair of a board of arbitration.

"Notice to minister

"(3) As soon as the parties appoint a person to act as a single arbitrator, they shall notify the minister of the name and address of the person appointed.

"Appointment of board of arbitration

"50.2(1) Within seven days after the day upon which the minister has informed the parties that the conciliation officer has been unable to effect a collective agreement,

each of the parties shall appoint to a board of arbitration a member who has agreed to act.

"Extension of time

"(2) The parties by a mutual agreement in writing may extend the period of seven days mentioned in subsection (1) for one further period of seven days.

"Failure to appoint member

"(3) Where a party fails to appoint a member of a board of arbitration within the period or periods mentioned in subsection (1), the minister, upon the written request of either of the parties, shall appoint such member.

"Third member

"(4) Within 10 days after the day on which the second of the members was appointed, the two members appointed by or on behalf of the parties shall appoint a third member who has agreed to act, and such third member shall be the chair.

"Failure to appoint third member

"(5) Where the two members appointed by or on behalf of the parties fail within 10 days after the appointment of the second of them to agree upon the third member, notice of such failure shall be given forthwith to the minister by the parties, the two members or either of them and the minister shall appoint as a third member a person who is, in the opinion of the minister, qualified to act.

"Notice of appointment by party

"(6) As soon as one of the parties appoints a member to a board of arbitration, that party shall notify the other party and the minister of the name and address of the member appointed.

"Notice of appointment by members

"(7) As soon as the two members appoint a third member, they shall notify the minister of the name and address of the third member appointed.

"Selection of method

"(8) If the chair of the board of arbitration was appointed by the minister, subject to subsections (9) to (11), the minister shall select the method of arbitration and shall advise the chair of the board of arbitration of the selection.

"Same, mediation-arbitration

"(9) The method selected shall be mediation-arbitration unless the minister is of the view that another method is more appropriate.

"Same, final offer selection

"(10) The method selected shall not be final offer selection without mediation.

"Same, mediation-final offer selection

"(11) The method selected shall not be mediation-final offer selection unless the minister in his or her sole discretion selects that method because he or she is of the view that it is the most appropriate method having regard to the nature of the dispute.

"Vacancies

"(12) If a person ceases to be a member of a board of arbitration by reason of resignation, death or otherwise before it has completed its work, the minister shall appoint a member in his or her place after consulting the party whose point of view was represented by such person.

"Replacement of member

"(13) If, in the opinion of the minister, a member of a board of arbitration has failed to enter on or to carry on his or her duties so as to enable it to render a decision within the time set out in subsection 50.5(5) or within the time extended under subsection 50.5(6), the minister may appoint a member in his or her place after consulting the party whose point of view was represented by such person.

"Replacement of chair

"(14) If the chair of a board of arbitration is unable to enter on or to carry on his or her duties so as to enable it to render a decision within the time set out in subsection 50.5(5) or within the time extended under subsection 50.5(6), the minister may appoint a person to act as chair in his or her place.

"Where single arbitrator unable to act

"(15) If the person appointed jointly by the parties as a single arbitrator dies before completing his or her work or is unable to enter on or to carry on his or her duties so as to enable him or her to render a decision within the time set out in subsection 50.5(5) or within the time extended under subsection 50.5(6), the minister may, upon notice or complaint to him or her by either of the parties and after consulting the parties, inform the parties in writing that the arbitrator is unable to enter on or to carry on his or her duties and the provisions of this section relating to the appointment of a board of arbitration shall thereupon apply with necessary modifications.

"Time and place of hearings

"(16) Subject to subsection (17), the chair of the board of arbitration shall fix the time and place of the first or any subsequent hearing and shall give notice thereof to the minister and the minister shall notify the parties and the members of the board of arbitration thereof.

"When hearings commence

"(17) The board of arbitration shall hold the first hearing within 30 days after the last (or only) member of the board is appointed.

"Exception

"(18) If the method of arbitration selected by the minister under subsection (8) is mediation-arbitration or mediation-final offer selection, the time limit set out in subsection (18) does not apply in respect of the first hearing but applies instead, with necessary modifications, in respect of the commencement of mediation.

"Failure of member to attend

"(19) Where a member of a board of arbitration appointed by a party or by the minister is unable to attend the first hearing at the time and place fixed by the chair, the party shall, upon the request in writing of the chair, appoint a new member in place of such member and where such appointment is not made within five days of the date of the request, the minister shall, upon the written request of the chair, appoint a new member in place of such member.

"Order to expedite proceedings

"(20) Where a board of arbitration has been established, the chair shall keep the minister advised of the progress of the arbitration and where the minister is ad-

vised that the board has failed to render a decision within the time set out in subsection 50.5(5) or within the time extended under subsection 50.5(6), the minister may, after consulting the parties and the board, issue whatever order he or she considers necessary in the circumstances to ensure that a decision will be rendered within a reasonable time.

"Procedure

"(21) Subject to the other provisions of this section, a board of arbitration shall determine its own procedure but shall give full opportunity to the parties to present their evidence and make their submissions.

"Same

"(22) If the members of a board of arbitration are unable to agree among themselves on matters of procedure or as to the admissibility of evidence, the decision of the chair governs.

"Time for submission of information

"(23) If the method of arbitration selected by the minister under subsection (8) is mediation-arbitration or mediation-final offer selection, the chair of the board of arbitration may, after consulting with the parties, set a date after which a party may not submit information to the board unless,

"(a) the information was not available prior to the date;

"(b) the chair permits the submission of the information; and

"(c) the other party is given an opportunity to make submissions concerning the information.

"Decision

"(24) The decision of a majority of the members of a board of arbitration is the decision of the board, but, if there is no majority, the decision of the chair is the decision of the board.

"Notice of agreement to recommence

"(25) If any member of the board of arbitration was appointed by the minister, the parties may, at any time before the arbitrator or board renders a decision, jointly serve written notice on the minister that they have agreed that the arbitration should be recommenced before a different board of arbitration.

"Termination of appointments

"(26) If notice is served on the minister under subsection (25), the appointments of all the members of the board of arbitration are terminated.

"Effective date of terminations

"(27) The terminations are effective on the day the minister is served with the notice.

"Obligation to appoint

"(28) Within seven days after the day the minister is served with the notice, the parties shall jointly appoint, under subsection 50.1(1), a person who agreed to act or shall each appoint, under subsection (1) of this section, a member who has agreed to act and section 50.1 and this section apply with respect to such appointments.

"Powers

"(29) The chair and the other members of a board of arbitration established under this act have, respectively,

all the powers of a chair and the members of a board of arbitration under the Labour Relations Act, 1995.

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"Appointment or proceedings of board not subject to review

"50.3. Where a person has been appointed as a single arbitrator or the three members have been appointed to a board of arbitration, it shall be presumed conclusively that the board has been established in accordance with this part and no application shall be made, taken or heard for judicial review or to question the establishment of the board or the appointment of the member, or members, or to review, prohibit or restrain any of its proceedings.

"Single arbitration of several disputes

"50.4(1) Where there are matters in dispute between parties to be decided by more than one arbitration in accordance with this part, the parties may agree in writing that the matters in dispute shall be decided by one board of arbitration.

"Parties

"(2) For the purposes of section 50.2, the bargaining agents for or on behalf of any firefighters to whom this part applies shall be one party and the employers of such firefighters shall be the other party.

"Powers of board

"(3) In an arbitration to which this section applies, the board may, in addition to the powers conferred upon a board of arbitration by this part,

"(a) make a decision on matters of common dispute between all of the parties; and

"(b) refer matters of particular dispute to the parties concerned for further bargaining.

"Same

"(4) Where matters of particular dispute are not resolved by further collective bargaining under clause (3)(b), the board shall decide the matters.

"Duty of board

"50.5 (1) The board of arbitration shall examine into and decide on matters that are in dispute and any other matters that appear to the board necessary to be decided in order to conclude a collective agreement between the parties.

"Criteria

"(2) In making a decision, the board of arbitration shall take into consideration all factors the board considers relevant, including the following criteria:

"1. The employer's ability to pay in light of its fiscal situation.

"2. The extent to which services may have to be reduced, in light of the decision, if current funding and taxation levels are not increased.

"3. The economic situation in Ontario and in the municipality.

"4. A comparison, as between the firefighters and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.

"5. The employer's ability to attract and retain qualified firefighters.

"Restriction

"(3) Nothing in subsection (2) affects the powers of the board of arbitration.

"Board to remain seized of matters

"(4) The board of arbitration shall remain seized of and may deal with all matters in dispute between the parties until a collective agreement is in effect between the parties.

"Time for decision

"(5) The board of arbitration shall give a decision within 90 days after the last, or only, member of the board is appointed.

"Extension

"(6) The parties may agree to extend the time described in subsection (5), either before or after the time has passed.

"Remuneration and expenses

"(7) The remuneration and expenses of the members of a board of arbitration shall be paid as follows:

"1. A party shall pay the remuneration and expenses of a member appointed by or on behalf of the party.

"2. Each party shall pay one-half of the chair's remuneration and expenses.

"Enforcement of arbitration decisions

"(8) Where a party or firefighter has failed to comply with any of the terms of the decision of an arbitration board, any party or firefighter affected by the decision may file in the Ontario Court (General Division) a copy of the decision, exclusive of the reasons therefor, whereupon the decision shall be entered in the same way as a judgment or order of that court and is enforceable as such.

"Non-application

"(9) The Arbitration Act, 1991, and the Statutory Powers Procedure Act do not apply with respect to an arbitration under this part.

"Where agreement reached

"50.6 (1) Where, during the bargaining under this part or during the proceedings before the board of arbitration, the parties agree on all the matters to be included in a collective agreement, they shall put them in writing and shall execute the document, and thereupon it constitutes a collective agreement.

"Failure to make agreement

"(2) If the parties fail to put the terms of all the matters agreed upon by them in writing or if having put the terms of their agreement in writing either of them fails to execute the document within seven days after it was executed by the other of them, they shall be deemed not to have made a collective agreement and the provisions of sections 49 to 50.5 apply, with necessary modifications.

"Decision of a board

"(3) Where, during the bargaining under this part or during the proceedings before the board of arbitration, the parties have agreed upon some matters to be included in the collective agreement and have notified the board in writing of the matters agreed upon, the decision of the board shall be confined to the matters not agreed upon by the parties and to such other matters that appear to the

board necessary to be decided to conclude a collective agreement between the parties.

"Same

"(4) Where the parties have not notified the board of arbitration in writing that, during the bargaining under this part or during the proceedings before the board of arbitration, they have agreed upon some matters to be included in the collective agreement, the board shall decide all matters in dispute and such other matters that appear to the board necessary to be decided to conclude a collective agreement between the parties.

"Execution of agreement

"(5) Within five days of the date of the decision of the board of arbitration or such longer period as may be agreed upon in writing by the parties, the parties shall prepare and execute a document giving effect to the decision of the board and any agreement of the parties, and the document thereupon constitutes a collective agreement.

"Preparation of agreement by board

"(6) If the parties fail to prepare and execute a document in the form of a collective agreement giving effect to the decision of the board and any agreement of the parties within the period mentioned in subsection (5), the parties or either of them shall notify the chair of the board in writing forthwith, and the board shall prepare a document in the form of a collective agreement giving effect to the decision of the board and any agreement of the parties and submit the document to the parties for execution.

"Failure to execute agreement

"(7) If the parties or either of them fail to execute the document prepared by the board within a period of five days from the day of its submission by the board to them, the document shall come into effect as though it had been executed by the parties and the document thereupon constitutes a collective agreement.

"Delegation

"50.7 (1) The minister may delegate in writing to any person the minister's power to make an appointment, order or direction under this act.

"Proof of appointment

"(2) An appointment, an order or a direction made under this act that purports to be signed by or on behalf of the minister shall be received in evidence in any proceeding as proof, in the absence of evidence to the contrary, of the facts stated in it without proof of the signature or the position of the person appearing to have signed it.

"Existing proceedings discontinued

"50.8(1) Proceedings before a board of arbitration under this part or a predecessor to this act in which a hearing was commenced before the date on which subsection 17(1) of the Public Sector Dispute Resolution Act, 1997, comes into force are terminated and any decision in such proceedings is void.

"Exception, completed proceedings

"(2) This section does not apply with respect to proceedings in which a hearing was commenced before June 3, 1997, if,

"(a) a final decision is issued on or before June 3, 1997; or

"(b) a final decision is issued after June 3, 1997 and the decision is served before the date on which subsection 17(1) of the Public Sector Dispute Resolution Act, 1997 comes into force.

"Exception, by agreement

"(3) This section does not apply if the parties agree in writing after the date on which subsection 17(1) of the Public Sector Dispute Resolution Act, 1997, comes into force to continue the proceedings."

This amendment puts forward and adopts from the Hospital Labour Disputes Arbitration Act the arbitration process that is followed right now in HLDAA and as it will be amended in a future amendment which adds into the existing HLDAA a choice of procedures and expedited time lines for the arbitration process.

1640

Mr Patten: That took almost 20 minutes to read. It's the longest amendment I've ever seen in my life. It's probably about the size of a small bill, which is quite something.

I have a couple of questions. Under "Selection of method," subsection (8), "If the chair of the board of arbitration was appointed by the minister, subject to subsections (9) to (11), the minister shall" — it's on the second page of that amendment, 2 of 9. Could you give me some clarification on that? The following methods are identified. That means that the minister, or presumably his or her delegate, will make the decision on what method of arbitration would take place. Why is that?

Mr Maves: Rather than have the arbitrator, who is used to having hearings and is used to having one particular method of arbitration being done, the minister, in discussion with the Ministry of Labour mediation services and conciliation officers who would be aware of the dispute, would be better placed, upon their advice, to decide upon the appropriate selection of method for that procedure.

I will note that there are restrictions on the minister in subsections (9) to (11). For instance, and I discussed this briefly with Mr Christopherson at an earlier point, if the minister decides to choose final offer selection, we're saying that mediation has to precede that. I don't know if Mr Hill wants to help clarify that any further.

Mr John Hill: I'd be quite happy to clarify it if it needs to be clarified.

Mr Patten: It just seems to me that the cabinet appoints — probably from the ministry anyway — a political appointment by the minister. Then, if the chair is appointed to the board of arbitration, rather than trusting that individual, who theoretically would be closer to the activity, the minister retains the right to select the method that's used, which could presumably be at odds with the views of the arbitrator. How does that take place? How does the chair of the board and the minister — I'm using "minister" in the symbolic term — how does that take place? Do they talk about this? Do they explore the options, or how would it work?

Mr Maves: The minister, in discussions with an arbitrator or —

Mr Patten: Yes, with the chair of the board of arbitration.

Mr Maves: Mr Hill might be able to better describe the exact process there.

Mr Hill: The discussion wouldn't be with the arbitrator. This would be something that would occur before arbitration takes place. What would happen in practice is there would be notification to the ministry. It would go to the labour management services branch of the ministry. They would get information about the dispute, what sort of bargaining and negotiations have been taking place, and give advice to the minister on what they felt would be the most appropriate method in the circumstances, and then the minister would make a decision on the basis of that and inform the chair.

Mr Patten: So the chair gets walking orders, time frames and what method is to be used. I might say too that in some discussions with some of the firefighters, they are saying this is a pretty heavy and long section and they haven't been provided with much time to consult with their own legal counsel. But it appears to me that there are still a lot of powers retained by the minister if other things don't click in.

The criteria seem to be the same — the consideration for ability to pay and the extent to which services are affected, all those kinds of things, which I think are unnecessary because it seems to me arbitrators consider all the factors that are at work in any case. To impose certain criteria may give undue weighting to the variety of factors that they select outside of this particular list, potentially compromising the arbitrator's independence and neutrality.

Under "Proof of appointment," this may be a moot point, but you said "absence of evidence to the contrary." This is under "proof of the signature or the position":

"An appointment, an order or a direction made under this act that purports to be signed by or on behalf of the minister shall be received in evidence in any proceeding as proof, in the absence of evidence...."

When you say "any proceeding," is this under a court proceeding or is this under an arbitration board proceeding? What's the context?

Mr Maves: A court proceeding, I believe, but Mr Hill can take that.

Mr Hill: It could be either. It could be that a party to an arbitration might wish to challenge an appointment on the basis that they are saying the purported arbitrator was not in fact appointed by the minister. I suppose it could also arise in a judicial review proceeding of an arbitration decision where somebody may want to argue that the decision rendered by the arbitrator or arbitration board wasn't valid because they weren't properly appointed by the minister.

Mr Patten: What was considered before was that final offer was a separate methodology, and you have created a new combination of mediation and final offer. In other words, the final offer can't be used unless there is mediation or a demonstration that that has happened. But if that has happened, let's say some mediation has already hap-

pened, that tool causes a problem, doesn't it, when you say, "We've already had some mediation; now we're going to look at mediation-final offer"? What does that mean?

Mr Maves: The direction there, and I think we discussed this during the hearings, is that in some cases there may be many issues in dispute that could be resolved by mediation. It was thought that mediation would take some issues off the table, and if there were just some remaining issues in dispute, it could be decided that they would be decided by final offer selection. That's why we had mediation in tandem with final offer selection.

Mr Patten: Oh, I see. Okay.

Mr Christopherson: Further to my Liberal colleague's comments, I would also point out that the portion of Bill 136 that's the actual bill, before you get to schedules A and B, runs a little over five pages and just slips into the sixth page. This amendment alone runs almost nine full pages. To paint the full absurdity of what's happening here, I had to walk over to Mr Carpenter and ask him, as I am sure Mr Patten had to do, what some of his questions are, so that I could then walk the few feet back to my chair here at the table to ask these questions, because there is no opportunity for Mr Carpenter to actually come forward and ask questions and make submissions about a brand-new process for them that's completely different from what the minister was so proud of up until last Thursday. That's how ridiculous this process is.

Anyway, if I understand his questions — because given the time frames here, I only had a couple of minutes with him. So I'm going to look at him, and if I'm not asking the question correctly or if there is a supplementary question that needs to be asked, I'm going to take the two minutes that it takes to walk over and ask him, up until 5 o'clock when everything runs out, including my right to ask questions, and that's in about nine minutes from now. It's almost like trying to get permission to have an audience in front of the King, for God's sake. At 5 o'clock, even the opposition members turn into pumpkins.

1650

As I understand it, one of the concerns is that Bill 84, which was the betrayal of the promise made to the firefighters by Mike Harris personally before the election that they'd have all kinds of input and opportunity to comment before bills were introduced, which didn't happen, which is not yet proclaimed — this is my understanding, and I ask both Mr Maves and Mr Carpenter to correct me if I'm wrong. But since it's not proclaimed, Mr Carpenter's concern on behalf of the members of his association is, if it's proclaimed first but before a process is completed in terms of a conciliation — this bill is proclaimed — does that mean that case may have to be done twice, once through Bill 84, as far as it gets, and then again through Bill 136 upon its proclamation?

Mr Hill: Perhaps I could answer that. We're certainly aware of the potential problem that might be created if the proclamations are not coordinated. We're working with the Ministry of the Solicitor General and Correctional Services to ensure that's smooth. They'll be proclaimed in

a way that won't cause problems, that won't have part IX of the FPPA come into force before this does.

Mr Christopherson: What happens if the process is halfway, though? Does that mean it would just automatically fall under Bill 136 or does it have to start over?

Mr Hill: If you're talking about a proceeding that has already started under the Fire Departments Act, the amendments here will deal with that. If proceedings started before this act comes into force, they are terminated, subject to certain specific exceptions.

Mr Christopherson: Now I'll play interpreter and ask Mr Carpenter if there's anything else he'd like me to ask in follow-up. Does that answer your question? Yes. Thank you very much. It sure would have made a lot more sense if Mr Carpenter had been given his democratic right to come and ask the question himself on behalf of his members. That's the end of my comments on this particular chapter of this absurdity.

The Chair: Any further questions or comments on this amendment? Seeing none, I put the vote. Shall the government amendment beginning on page 47 carry? All those in favour? Opposed? It's carried.

Our next amendment is a Liberal amendment, page 48, Mr Patten.

Mr Patten: Is it now not redundant? Check with the clerk.

The Chair: The advice is that it's not necessarily redundant. You may choose to move it or withdraw it. It's your choice.

Mr Patten: I move that section 17 of schedule A to the bill be struck out and the following substituted:

"17(1) Section 50 of the Fire Protection and Prevention Act, 1997 is amended by adding the following subsections:

"Method of arbitration

"(2.1) The arbitrator or the chair of the arbitration board shall determine the method to be used to resolve the dispute, including mediation-arbitration or mediation-final offer selection, subject to subsection (2.2).

"Limitation

"(2.2) If the method provides for final offer selection it must also provide for mediation and it must provide that final offer selection shall not be used until all reasonable efforts to resolve the dispute through mediation have failed.

"(2) Subsections 50(7) and (8) of the act are repealed."

The Chair: Did you want to comment?

Mr Patten: I think I made my arguments before on that. This allows that essentially final offer is the last resort and that mediation is continued. I don't think we're that far off, frankly, the part that deals with this in the previous section. We also believe it's important to unfetter the arbitrators with the imposition of the criteria from Bill 26. We think it does that, and we think it's important to maintain the arbitration process for the firefighters and that they make the selection related to which way they'd like to proceed.

Mr Maves: I appreciate the amendment coming from Mr Patten. I would just point out that we have the spirit of

his limitation with regard to final offer selection in the amendment we just passed, and we did discuss that briefly. In his, he talks about "all reasonable efforts to resolve the dispute through mediation have failed." Ours goes a little bit further, but I think it speaks to the spirit of what his amendment was, that the method selected shall not be final offer selection without mediation. I just wanted to make that point.

The Chair: Further questions and comments? Seeing none, I'll put the question. Shall the Liberal motion to section 17 found on page 48 carry? All those in favour? Opposed? It's lost.

We now have a government amendment on page 49.

Mr Maves: I move that clause 57(b) of the Fire Protection and Prevention Act, 1997, as set out in subsection 17(3) of schedule A to the bill, be struck out and the following substituted:

"(b) governing the selection of arbitrators under section 53."

I'll ask Mr Hill to speak to that quickly because I don't have my note with me.

Mr Hill: What is the number of the page?

The Chair: It's page 49, to subsection 17(3).

Mr Maves: If I recall this, before Mr Hill can correct me, this is with regard to the minister making regulations with regard to prescribing the procedures to be followed and reasonable time limits. Mr Hill?

Mr Hill: Sorry about that. I got lost in my text here. The original clause (b) talked about selecting arbitrators under section 50 of the FPPA. That is now redundant as a result of the other amendments that have been made to the FPPA. So the provision you see substituted in the government motion simply deals with selection of arbitrators under section 53, which deals with grievance arbitration as opposed to interest arbitration.

The Chair: Further questions and comments? Seeing none, I put the question. Shall the government amendment that we find of page 49 carry? All those in favour? Opposed? It's carried.

Colleagues, it being 5 o'clock, according to the standing orders we now move into a different procedure.

Mr Christopherson: On a point of order, Madam Chair: We just finished which amendment number?

The Chair: Page 49.

Mr Christopherson: We finished page 49, and we still have up to 202.

The Chair: We have 202 pages before us, but as Mr Maves pointed out earlier, a great number of those are not amendments; they're points of information to members.

Mr Christopherson: At least two thirds of them are amendments, though; government amendments.

The Chair: Whatever.

Mr Christopherson: My point is, before you go into this, since we're about to be shut down in terms of having any voice or say, I just want to put on the record that these amendments have never had any kind of public comment, they've had no public input. They were tabled just yesterday, and now we're being muzzled from having comment too.

The Chair: Mr Christopherson, it's not a point of order, I'm sorry. We're going to begin.

I shall endeavour to read these out as clearly as I can, and I will refer to the page numbers for your information as we go through them.

We've just finished doing amendments to section 17. Shall schedule A, section 17, as amended, carry? All those in favour? Opposed? It carries.

1700

Schedule A, section 18, page 50, an NDP amendment. Shall this amendment carry? All those in favour? Opposed? It is lost.

Page 51 is a government amendment. All those in favour? All those opposed? It's carried.

Page 52 is a Liberal amendment. All those in favour? All those opposed? It's lost.

Page 53 is a government amendment. All those in favour? All those opposed? It's carried.

Page 54 is a government amendment. All those in favour? All those opposed? It's carried.

Page 55, also a government amendment. All those in favour? All those opposed? It's carried.

Page 56 is an NDP motion. All those in favour? All those opposed? It's lost.

Mr Maves: Chair, I would like to withdraw the next government amendment on page 57.

The Chair: All right. The amendment on page 57 is withdrawn.

Moving then to page 58, an NDP amendment. All those in favour? All those opposed? It too is lost.

Page 59 is a government amendment. All those in favour? All those opposed? It's carried.

Page 60 is a government amendment. All those in favour? Opposed? Carried.

Shall schedule A, section 18, as amended, carry? All those in favour? All those opposed? It carries.

Schedule A, section 19. Shall schedule A, section 19 carry? All those in favour? Opposed? It carries.

Would it be easier if I read — I didn't read the pages. I'm sorry. Let's go back and we'll look at that again. I should read the pages out. I apologize for that. It is confusing.

All right, we were on page 60. That was a government amendment that we had passed; then we went to page 61. This refers to schedule A, section 19. I'll put the question. Referring to page 61, all those in favour of this section? Opposed? It is lost.

Referring to page 61, that's redundant. Page 63. This is a Liberal amendment. All those in favour? Those opposed? It's lost.

Going to page 64. This is a government amendment. All those in favour? All those opposed? It's carried.

Page 65. This is a government motion. All those in favour? Opposed? It's carried.

Page 66 is an NDP amendment. All those in favour? Opposed? It's lost.

Page 67 is a government motion.

Mr Maves: Chair, you might want to note that there are four pages to this.

The Chair: Yes. There are four pages on this one, with one number. All those in favour of this amendment? All those opposed? It's carried.

Page 68. This is a government amendment. All those in favour? All those opposed? It's carried.

Page 69 is a government amendment. It's also two pages. All those in favour? All those opposed? It's carried.

We are referring back to the entire schedule. Shall schedule A, section 20, as amended, carry? All those in favour? All those opposed? Schedule A, section 20, carries.

Going on to schedule A, section 21. This would be referring to page 70, which is a Liberal amendment. All those in favour? All those opposed? It's lost. It also was two pages.

Moving to page 71, this is a government amendment. All those in favour? Opposed? It is carried.

Page 72 is set aside for now and we move to page 73. This is a government amendment. All those in favour? Opposed? It's carried.

Page 74, also a government amendment. All those in favour? Opposed? It's carried.

Page 75, a government amendment. This also is five pages. All those in favour? Opposed? It's carried.

Page 76 is a government amendment. All those in favour? Opposed? It's carried.

Page 77, government amendment. All those in favour? Opposed? It's carried.

Referring back to the entire schedule, shall schedule A, section 21, as amended, carry? All those in favour? Those opposed? Schedule A, section 21, as amended, carries.

Schedule A, section 21.1. This is new and it refers — sorry. We go back to page 72 that we had set aside a little bit ago. This is a Liberal amendment. All those in favour? Opposed? This is lost.

Shall schedule A, section 21.1, carry? All those in favour? Sorry, I don't need to ask that question.

We move to schedule A, section 22. There are no pages referring to this particular one. Shall schedule A, section 22, carry? All those in favour? Opposed? It's carried.

Schedule A, section 23. Again, there are no pages referring to this one. Shall this section carry? All those in favour? Opposed? It's carried.

Shall schedule A, in its entirety, as amended, carry? All those in favour? Opposed? Schedule A, as amended, carries.

Moving now to schedule B, referring to the Liberal motion on page 78, all those in favour of this amendment? Opposed? It's lost.

Page 79 is an NDP motion. All those in favour of this motion? Opposed? It's lost.

Page 80 is a Liberal motion. All those in favour? All those opposed? Lost.

Shall section 1 of schedule B carry? All those in favour? Opposed? It's carried.

We now have on page 81 a government amendment. Shall this amendment carry? All those in favour? Opposed? It carries.

We move to page 82. This is a government motion. All those in favour? Opposed? It carries.

1710

Page 83, a government amendment. All those in favour? Opposed? It carries.

Page 84, also a government motion. All those in favour? Opposed? It carries.

Page 85, a government motion. All those in favour? Opposed? It carries.

Page 86, also a government motion. All those in favour? Opposed? It carries.

Shall schedule B, section 2, as amended, carry? All those in favour? Opposed? It carries.

Page 87 is a government amendment to schedule B, section 3. All those in favour? Opposed? It's carried.

Shall schedule B, section 3, as amended, carry? All those in favour? Opposed? It carries.

Page 88 is a government motion. All those in favour? Opposed? It carries.

Shall schedule B, section 4, as amended, carry? All those in favour? Opposed? It's carried.

There's no paper for section 5. Shall schedule B, section 5, carry? All those in favour? Opposed? It carries.

Page 89 is a government motion to schedule B, section 6. All those in favour? Opposed? It carries.

Shall schedule B, section 6, as amended, carry? All those in favour? All those opposed? It carries.

Page 90 is a Liberal motion. All those in favour? Opposed? It's lost.

Page 91 is a government amendment. All those in favour? Opposed? It's carried.

Page 92 is a government motion, also to schedule B, section 7. All those in favour? Opposed? It's carried.

Shall schedule B, section 7, as amended, carry? All those in favour? Opposed? It carries.

There is no paper reflecting section 8 of schedule B. Shall section 8 of schedule B carry? All those in favour? Opposed? It carries.

On page 93, a Liberal motion. All those in favour? Opposed? It's lost.

On page 94, we have a government motion, also to section 9. All those in favour? Opposed? It's carried.

Page 95, also a government motion. All those in favour? Opposed? It's carried.

Page 96, also a government motion. All those in favour? Opposed? It's carried.

Page 97 is a government motion. All those in favour? All those opposed? It's carried.

Page 98 is a government motion. All those in favour? All those opposed? It's carried.

Page 99 is a government motion. All those in favour? All those opposed? It's carried.

Shall schedule B, section 9, as amended, carry? All those in favour? Opposed? Schedule B, section 9, as amended, carries.

The next page, numbered 100, is for information only.

Shall schedule B, section 10, carry? All those in favour? All those opposed? It's carried.

Schedule B, section 11, again no page of information on this one. All those in favour? All those opposed? It carries.

Page 101 is a government amendment to section 12, schedule B. All those in favour? All those opposed? It carries.

Page 102 is also a government amendment. All those in favour? All those opposed? It carries.

Page 103 is a government amendment to section 12, schedule B. All those in favour? All those opposed? It carries.

Shall section 12 of schedule B, as amended, carry? All those in favour? All those opposed? It carries.

Page 104 is for information only.

Page 105 is a Liberal amendment to schedule B, section 13. All those in favour of this amendment? Opposed? Lost.

Shall schedule B, section 13, carry? All those in favour? All those opposed? It carries.

Page 106 is a government amendment to schedule B, section 14. All those in favour? All those opposed? It carries.

Page 107 is an NDP motion to section 14. All those in favour? All those opposed? It's lost.

Page 108 is a Liberal motion to section 14. All those in favour? All those opposed? It's lost.

Mr Patten: On a point of order, Madam Chair: Just in case you're wondering why we're not participating in this charade, sitting here listening to a staff person advise on each vote before the vote is taken as to how the government should vote, so the PA then puts up his hand and the rest of them follow suit, if you think that I feel good as a member sitting here —

The Chair: That's not a point of order.

Mr Patten: — just going through the motions —

Interjections.

The Chair: That's not a point of order.

Mr Patten: I just wanted to describe the proceedings.

The Chair: All right.

Mr Maves: Actually, Chair, on the same point of order, or on a different point of order: I very much know how to vote on my own, but in this process it's best to be careful and have others help you make sure there are no slipups. As you noticed in your own procedures, it can be difficult at times to follow exactly where you are so it's not at all what's said in Mr Patten's comments.

The Chair: I remind everyone that according to the standing orders, we are to go through this without debate so we will endeavour to keep our wits —

Mr Patten: It was a point of order.

The Chair: I recognize it was a point of order, but we must endeavour to keep our wits about us here.

We just voted on the Liberal motion on page 108. That was lost.

Shall section 14 of schedule B carry? All those in favour? All those opposed? It carries.

1720

Section 15 of schedule B on page 109 is a government amendment. All those in favour? All those opposed? It's carried.

Page 110 is a government motion to schedule B, section 15. All those in favour? All those opposed? It's carried.

Page 111 is also a government motion to section 15. All those in favour? Opposed? It's carried.

Shall schedule B, section 15, as amended, carry? All those in favour? All those opposed? It's carried.

Section 16 is not reflected on paper. Shall section 16 carry? All those in favour? All those opposed? Section 16 carries.

On page 112 we have a government amendment to schedule B, section 17. All those in favour? All those opposed? It carries.

Page 113 is an NDP motion to the same section. All those in favour? Opposed? Lost.

Shall section 17 of schedule B, as amended, carry? All those in favour? Opposed? It carries.

Page 114 is an NDP motion to schedule B, section 18. All those in favour? Opposed? It's lost.

Page 115 is a government motion on schedule B, section 18. All those in favour? Opposed? It's carried.

Page 116 reflects a Liberal amendment for schedule B, section 18. All those in favour? Opposed? It's lost.

Shall section 18 of schedule B, as amended, carry? All those in favour? All those opposed? It's carried.

Page 117 is a government amendment to schedule B, section 19. All those in favour?

Mr Maves: Chair, it's actually not an amendment.

The Chair: Oh, I'm sorry.

Mr Maves: It's a point of information to the government to vote against section 19.

The Chair: I stand corrected. It is a point of information and there is in fact no amendment to section 19 then. Shall section 19 carry? All those in favour? All those opposed? That section is lost.

Mr Maves: Chair, the same could be said for the next. It's a point of information to vote against section 20. It's not an amendment.

The Chair: So then we're reflecting information that's on page 118. This is schedule B, section 20. All those in favour? Opposed? Section 20 of schedule B is lost.

Page 119 is for information also. This is for section 21 of schedule B. All those in favour? All those opposed? It's lost.

Page 121 is also information only.

Mr Maves: No.

The Chair: Oh, wait a minute.

Mr Maves: Page 120 was.

The Chair: I'm sorry. You're right, 120. That's what I had in my hand. I read it wrong. Sorry.

We're now on page 121. This is a government motion to schedule B, section 22. All those in favour? All those opposed? It's carried.

That was two pages. Page 122 is a government motion. All those in favour? All those opposed? It carries.

Page 123 is a government motion. All those in favour? All those opposed? It carries.

Page 124 is a government amendment to schedule B, section 22. All those in favour? Opposed? It's carried.

Mr Patten: Was that section 22?

The Chair: Yes, reflected on page 124, an amendment.

Mr Patten: I thought it was subsection 22(5).

The Chair: It says that, but we're going by the whole section, I believe. We've been doing that all along.

Shall section 22 of schedule B, as amended, carry? All those in favour? All those opposed? It's carried.

Reflected on page 125 is a government motion to schedule B, section 23. All those in favour? All those opposed? It's carried.

Page 126 reflects a government motion on section 23, schedule B. All those in favour? Opposed? It's carried.

Page 127, a government motion on section 23, schedule B. All those in favour? Opposed? It's carried.

Shall section 23, as amended, of schedule B carry? All those in favour? Opposed? It's carried.

Page 128 is a Liberal amendment to sections 24 and 25 of schedule B. All those in favour? Opposed? That motion is lost.

The next page is also a Liberal amendment to section 24 of schedule B. All those in favour? Opposed? It's lost.

The next page is 130. This is a government amendment to section 24, schedule B. All those in favour? Opposed? It's carried.

Page 131 is a Liberal amendment of section 24, schedule B. All those in favour? Opposed? Lost.

Page 132 reflects a Liberal amendment to section 24, schedule B. All those in favour? Opposed? Lost.

Page 133 is a government amendment for section 24, schedule B. All those in favour? Opposed? It's carried.

Shall section 24 of schedule B, as amended, carry? All those in favour? All those opposed? That's carried.

Page 134 is a Liberal amendment to section 25 of schedule B. All those in favour? Opposed? Lost.

Page 135 reflects a government amendment to schedule B, section 25. All those in favour? Opposed? It's carried.

Page 136, a government amendment to schedule B, section 25. All those in favour? Opposed? It's carried.

Page 137 is a Liberal amendment to schedule B, section 25. All those in favour? Opposed? It's lost.

Page 138 is a government motion, schedule B, section 25. All those in favour? Opposed? It's carried.

Page 139 is a Liberal motion for schedule B, section 25. All those in favour? Opposed? It's lost.

Page 140 is a government motion, schedule B, section 25. All those in favour? Opposed? It's carried.

Page 141 is a government motion, also to schedule B, section 25. All those in favour? Opposed? It's carried.

Page 142 is a government motion for schedule B, section 25. All those in favour? Opposed? It's carried.

Page 143, a government motion, schedule B, section 25. All those in favour? Opposed? It's carried.

Page 144 is a government motion, schedule B, section 25. All those in favour? Opposed? It's carried.

Page 145 is a government motion, schedule B, section 25. All those in favour? Opposed? It's carried.

Page 146 is a government amendment to section 25, schedule B. All those in favour? Opposed? It's carried.

Page 147 is a government motion to schedule B, section 25. All those in favour? Opposed? It's carried.

Page 148 is a government motion to schedule B, section 25. All those in favour? Opposed? It's carried.

Shall section 25 of schedule B, as amended, carry? All those in favour? Opposed? It carries.

Page 149 is a Liberal amendment to schedule B, section 26. All those in favour? Opposed? It's lost.

1730

Mr Maves: Chair, the next one on page 150 is a point of information, to vote against section 26.

The Chair: Yes, information only on page 150. Shall schedule B, section 26, carry? All those in favour? All those opposed? It's lost.

Page 151 is a government motion to schedule B, section 27. All those in favour? Opposed? It's carried.

Page 152 is a government motion to schedule B, section 27. All those in favour? Opposed? It carries.

Page 153 is a government amendment to schedule B, section 27. All those in favour? Opposed? It also carries. It's several pages.

Shall schedule B, section 27, carry? All those in favour? Opposed? It carries.

There's no information or amendments for the next section, section 28 of schedule B. Shall this section carry? All those in favour? Opposed? Section 28 carries.

On page 154 there's a government amendment to section 29. All those in favour? Opposed? It carries.

Page 155 is a Liberal amendment to schedule B, section 29. All those in favour? Opposed? It's lost.

Shall schedule B, section 29, as amended, carry? All those in favour? Opposed? It carries.

Page 156 is a Liberal amendment to schedule B, section 30. All those in favour? Opposed? It's lost.

Page 157 is a government amendment to the same section 30 of schedule B. All those in favour? Opposed? It's carried.

Page 158 is a government amendment to the same section, schedule B. All those in favour? Opposed? It's carried.

Shall section 30 of schedule B, as amended, carry? All those in favour? Opposed? That carries.

Page 159 reflects a government amendment to schedule B, section 31. All those in favour? Opposed? It carries.

Shall section 31 of schedule B, as amended, carry? All those in favour? Opposed? It carries.

Page 160 is a government amendment for section 32 of schedule B. All those in favour? Opposed? It carries.

Shall section 32 of schedule B, as amended, carry? All those in favour? Opposed? It carries.

Mr Maves: Chair, may I just have one moment to arrange some papers?

The Chair: Sure.

Mr Maves: Thank you very much.

Chair, we're now on number 161?

The Chair: Right. I'll just wait for the clerk to return as well.

We are working from page 161. This is a Liberal amendment to schedule B, sections 33 and 34. All those in favour of this amendment? Opposed? It's lost.

Page 162 is an NDP amendment to schedule B, section 33. All those in favour? Opposed? It's lost.

Mr Maves: Chair, again this is a note to vote against section 33. It's not an amendment.

The Chair: Information only. Then we return to schedule B, section 33. All those in favour of this section? All those opposed? That section is lost.

Page 164 is an NDP amendment. This is to schedule B, section 34. All those in favour? Opposed? It's lost.

Page 165 is also an NDP motion to section 34, schedule B. All those in favour? Opposed? It's lost.

Page 166 is an NDP motion also to section 34, schedule B. All those in favour? Opposed? Lost.

Page 167 is an NDP motion to schedule B, section 34. All those in favour? Opposed? It's lost.

Page 168 is for information only. Shall section 34 of schedule B carry? All those in favour? All those opposed? It's lost.

Page 169 reflects a Liberal amendment to schedule B, sections 35 to 38. All those in favour? All those opposed? It's lost.

Page 170 is a government amendment. This is for schedule B, section 35. All those in favour? Opposed? It's carried.

Page 171 is a government amendment. This is also to schedule B, section 35. All those in favour? All those opposed? It's carried.

1740

Shall section 35 of schedule B, as amended, carry? All those in favour? Opposed? It's carried.

Page 172 is a government amendment to schedule B, section 36. All those in favour? Opposed? It's carried.

Page 173 is also a government amendment to schedule B, section 36. All those in favour? Opposed? Carried.

Page 174 is a government amendment to schedule B, section 36. All those in favour? Opposed? It's carried.

Shall section 36 of schedule B, as amended, carry? All those in favour? Opposed? It's carried.

The government amendment on page 175 is to schedule B, section 37. All those in favour? Opposed? It's carried.

Page 176 is a government amendment to section 37 of schedule B. All those in favour? All those opposed? It's carried.

Page 177 is a government amendment to section 37 of schedule B. All those in favour? All those opposed? It's carried.

Page 178 is a government amendment to schedule B, section 37. All those in favour? All those opposed? It's carried.

Shall schedule B, section 37, as amended, carry? All those in favour? All those opposed? It's carried.

Page 179 reflects a government amendment to schedule B, section 38. All those in favour? All those opposed? It's carried.

Page 180 is an NDP motion to schedule B, section 38. All those in favour? Opposed? It's lost.

Page 181 is a government amendment to schedule B, section 38. All those in favour? All those opposed? It's carried.

Page 182 is an NDP motion to schedule B, section 38. All those in favour? Opposed? It's lost.

Page 183 is a government motion to schedule B, section 38. All those in favour? All those opposed? It's carried.

Page 184 is a government motion to schedule B, section 38. All those in favour? Opposed? Carried.

Page 185 is a government motion to schedule B, section 38. All those in favour? All those opposed? It's carried.

Shall section 38 of schedule B, as amended, carry? All those in favour? All those opposed? It's carried.

Page 186 is a point of information only.

Page 187 is a government amendment, two pages. This is to schedule B, section 39. All those in favour? Opposed? It's carried.

Shall section 39 of schedule B, as amended, carry? All those in favour? All those opposed? It's carried.

Page 188 is an NDP motion to schedule B, now section 40. All those in favour? Opposed? It's lost.

Page 189 is for information only.

Shall section 40 carry? All those in favour? All those opposed? That section is lost.

On page 190, we have an NDP motion to schedule B, section 41. All those in favour of this motion? Opposed? It's lost.

Page 191 is for information only.

Shall section 41 of schedule B carry? All those in favour? All those opposed? That section is lost.

Shall section 42 of schedule B carry? All those in favour? All those opposed? That section's lost.

Shall section 43 of schedule B carry? All those in favour? All those opposed? It's lost.

Page 193 is information also, of course.

Page 194 is an amendment. This is an NDP amendment. This is to schedule B, section 44. All those in favour? Opposed? Lost.

Page 195 is for information only.

Shall section 44 of schedule B carry? All those in favour? All those opposed? It's lost.

Page 196 is a government amendment. This is to schedule B, section 45. All those in favour? Opposed? That amendment's carried.

Schedule B, section 45, as amended, does it carry? All those in favour? All those opposed? It is carried.

Section 46, schedule B, on page 197 is an NDP amendment. All those in favour of this amendment? Opposed? That's lost.

We'll finish off section 46. Shall section 46 of schedule B carry? All those in favour? Opposed? Carried.

Page 198 reflects a government amendment to schedule B, section 47. All those in favour? All those opposed? It's carried.

Page 199 reflects a government amendment to schedule B, section 47. All those in favour? Opposed? Carried.

Page 200 reflects an NDP amendment to schedule B, section 47. All those in favour? Opposed? It's lost.

Page 201 is also an NDP motion on schedule B, section 47. All those in favour? All those opposed? It's lost.

Page 202 is an NDP motion also to section 47 of schedule B. All those in favour? Opposed? It's lost.

Shall section 47, as amended, carry? All those in favour? All those opposed? Carried.

Shall section 48 carry? All those in favour? All those opposed? Carried.

Shall section 49 carry? All those in favour? All those opposed? It's carried.

Shall schedule B, as amended, carry? All those in favour? All those opposed? Schedule B, as amended, carries.

We postponed from the very beginning a couple of sections.

Shall section 1, previously postponed, carry? All those in favour? Opposed? Section 1 carries.

Shall section 2, previously postponed, carry? All those in favour? All those opposed? Section 2 shall carry.

Shall section 7, which is the short title of the bill, carry? All those in favour? Opposed? The short title shall carry.

Shall the long title of the bill carry? All those in favour? Opposed? Carried.

Shall Bill 136, as amended, carry? All those in favour? Opposed? It carries.

Shall Bill 136, as amended, be reported to the House?

Mr Christopherson: Recorded vote.

Ayes

Gilchrist, Hudak, Maves, Ouellette, Smith.

Nays

Christopherson, Hoy, Patten.

The Chair: Bill 136, as amended, shall be reported to the House.

Colleagues, that concludes our proceedings for this afternoon. We will stand adjourned to be recalled at the call of the chair.

The committee adjourned at 1748.

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Also taking part / Autres participants et participantes

Mr John Hill, legal services branch, Ministry of Labour

Clerk Pro Tem / Greffier par intérim

Mr Douglas Arnott

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Mr Mark Spakowski, legislative counsel

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of Ontario**

First Session, 36th Parliament

**Assemblée législative
de l'Ontario**

Première session, 36^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 3 December 1997

**Journal
des débats
(Hansard)**

Mercredi 3 décembre 1997

**Standing committee on
resources development**

Election of Vice-Chair

**Comité permanent du
développement des ressources**

Élection du Vice-Président

Chair: Brenda Elliott
Clerk: Donna Bryce

Présidente : Brenda Elliott
Greffière : Donna Bryce

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
RESOURCES DEVELOPMENT**

**COMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES**

Wednesday 3 December 1997

Mercredi 3 décembre 1997

The committee met at 1613 in committee room 1.

ELECTION OF VICE-CHAIR

The Chair (Mrs Brenda Elliott): Colleagues, I think we'll start. I'll call the standing committee on resources development to order.

Honourable members, it's my duty today to call upon you to elect a Vice-Chair. Are there any nominations?

Mr Ted Chudleigh (Halton North): Madam Chair, it gives me great pleasure to nominate the member for Brant-Haldimand, Mr Peter Preston, MPP.

The Chair: Are there any further nominations? Seeing none, I declare the nominations closed. Mr Preston, my congratulations to you as our new Vice-Chair.

Mr Peter L. Preston (Brant-Haldimand): Thank you.

The Chair: Is there any further business, colleagues? Seeing none, I declare this committee meeting adjourned at the call of the Chair.

The committee adjourned at 1614.

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Assemblée législative de l'Ontario

Première intercession, 36^e législature

Official Report of Debates (Hansard)

Tuesday 17 February 1998

Journal des débats (Hansard)

Mardi 17 février 1998

Standing committee on resources development

Farming and Food Production
Protection Act, 1997

Comité permanent du développement des ressources

Loi de 1997 sur la protection
de l'agriculture
et de la production alimentaire



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STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Tuesday 17 February 1998

Mardi 17 février 1998

*The committee met at 0904 in room 151.*FARMING AND FOOD PRODUCTION
PROTECTION ACT, 1997LOI DE 1997 SUR LA PROTECTION
DE L'AGRICULTURE
ET DE LA PRODUCTION ALIMENTAIRE

Consideration of Bill 146, An Act to protect Farming and Food Production / Projet de loi 146, Loi protégeant l'agriculture et la production alimentaire.

The Chair (Mrs Brenda Elliott): Good morning, everyone. Our purpose for gathering this morning is to consider hearings on Bill 146, An Act to protect Farming and Food Production.

Our first order of business is to attend to the subcommittee report before you dated December 18. Do I have a motion to adopt? Thank you, Mr O'Toole. Any discussion? All those in favour? Opposed? It's carried.

STATEMENT BY THE MINISTER
AND RESPONSES

The Chair: We now move to much more interesting matters. Our committee is pleased to welcome the Honourable Noble Villeneuve, Minister of Agriculture, Food and Rural Affairs, to join us and make our first presentation of the day on Bill 146. Welcome, Minister.

Hon Noble Villeneuve (Minister of Agriculture, Food and Rural Affairs, minister responsible for francophone affairs): Thank you very much, Madam Chair, and to my colleagues, good morning. Some of you I haven't seen for a little while. It's great to see you all here. Some of you had to survive an ice storm and some of you were able to get away without having to do that. I don't wish that on anyone, even the opposition. I know one of my opposition colleagues certainly lived the ice storm, as we did in eastern Ontario.

Welcome all. This will be oriented towards any changes to Bill 146 that the committee sees fit. I want to thank the committee members for conducting these hearings and I want to thank all those who will be making presentations. I think this is a very important piece of legislation and its time has come in a modern world, the agricultural world we live in here in Ontario.

I'm pleased you have taken an interest in Bill 146, which is An Act to protect Farming and Food Production, because I think it's a piece of legislation whose time has indeed come.

The proposed legislation is crucial in protecting farmers' ability to continue producing an abundant supply of wholesome, high-quality, affordable food and other agricultural products for Ontario, for world markets and indeed to provide Ontario with quite a few billion dollars in export sales.

It reasserts this government's commitment to agriculture and food production as a vibrant, competitive and growing sector that annually contributes some \$25 billion to the provincial economy, employs some 640,000 people and creates more jobs every year, and exports products worth well over \$5 billion annually to the far reaches of the globe.

In order to continue feeding all of us as well as creating jobs and economic growth, our food producers, our farmers, of course, need assurances that they can conduct their normal business practices without fear of nuisance lawsuits and unnecessarily restrictive bylaws.

While we do have a law that provides this kind of protection, it is limited, out of date and indeed in my opinion no longer effective. In the 10 years since the Farm Practices Protection Act was introduced, the population mix in rural Ontario has changed, with more urban people moving into rural surroundings; new and innovative kinds of farming have been introduced involving non-traditional livestock and crops; modern, normal farming practices include activities not covered under the current legislation; on-farm activities in which farmers add value to the commodities they grow are increasing.

Times have changed and the current act has not changed with them.

The bill being discussed in these hearings reflects far better the modern-day realities of farming, and it does much more, because it balances the rights of those who conduct their farming businesses in rural Ontario with the rights of all those who live in rural Ontario. It adheres to strong health, safety and environmental standards. I emphasize that: It adheres to strong health, safety and environmental standards.

It is forward-looking, providing much-needed protection for today's farmers and for generations to come, and it builds on the tremendous environmental work that's been done by farmers and farm organizations over many years.

As an example, the Ontario Farm Environmental Coalition has been working since the early 1990s with our farmers across the province, encouraging them to conduct farming activities in a way that respects the environment.

0910

Dozens of farm organizations and marketing boards are involved in the coalition, including the Ontario Federation of Agriculture, whose representatives are here this morning — and, gentlemen, welcome and thank you for being with us — the Christian Farmers Federation of Ontario, AgCare and the Ontario Farm Animal Council. All told, the coalition represents tens of thousands of farmers.

Central to the coalition's efforts are environmental farm plans. These individual plans set out opportunities for environmental enhancement and provide a strategy for making low-cost, highly effective changes on our farms.

In combination with educational workshops, technical advice, peer reviews and funding incentives, the plans are helping our farmers to make environmental improvements in their own operations. It's voluntary and it's working because farmers care. In fact, it's working so well that recently the coalition received the province's Pollution Prevention Leadership Award.

Chers amis, il s'agit là d'un formidable témoignage de la clairvoyance de la collectivité agricole, et de ce qui peut être réalisé lorsqu'on travaille ensemble. Il s'agit également d'une reconnaissance du temps, des valeurs monétaires et des efforts investis par des milliers d'agriculteurs partout dans la province pour rendre leurs exploitations aussi respectueuses de l'environnement que possible. Je suis très heureux que le ministère soit en mesure de continuer à contribuer à ce partenariat dynamique.

Besides the environmental farm plans, there are countless projects involving millions of farmers' hard-earned dollars aimed at such things as reducing pesticide use, improving tilling practices, developing more efficient manure management practices, and of course erosion control. Farmers see these projects as investments both in the environment and in their business. For farmers, the two are connected at the most basic levels.

I know from years of experience the significant changes that are occurring in rural Ontario. Having been a farmer and a rural resident for decades, I can understand the attraction that draws people from the city into our countryside. That's easy to figure out. For most of us it is indeed a more tranquil, less rushed life, and possibly a better place to raise our family.

However, there's a real sense of community in rural living. Neighbours generally get along and help each other, and certainly that was very transparent during the ice storm. That's why so many have decided to make the move from the city to the countryside.

At this point in time I want to thank all of the farmers from across Ontario who sent generators and supplies to our folks who were very hard hit by the ice storm at the beginning of January. Certainly the generators were most welcome. They had to be shared and I must tell you in

many instances they ran for weeks on end, 24 hours a day. They were really not intended to run that hard for that long. I know some of them are, I would say, a little bit tired and maybe need some repairs before they go home, and we'll certainly try and look after that as well from the ministry's standpoint.

But make no mistake. For farmers, the countryside is very much their place of business, with all of the challenges and opportunities that entails, including living with the whims of Mother Nature and the fluctuation of world markets. The business of farming has evolved rapidly and farmers have risen to meet the challenge.

The Canadian farm population may be reducing in numbers, but it still produces enough food to feed Ontario and exports some \$5 billion plus.

I think we can all agree that creating a climate in which our farmers and food producers can continue to provide us with a high-quality, affordable food system without unnecessary restrictions is a very worthwhile goal.

That's why we're putting forward what we feel is this balanced piece of legislation. I use the word "balanced" because it was carefully crafted after extensive public consultations — pre-bill consultations. These were carried out by the parliamentary assistant and MPP for Hastings-Peterborough, Harry Danford, with help from Lambton MPP Marcel Beaubien. I want to thank both of those gentlemen who were very directly involved in pre-bill consultation and formulating Bill 146. That's the way we like to do things to ensure that new policy and legislation meets the needs of those it is intended for and will affect.

The response was most encouraging. More than 850 people attended the meetings and more than 60 written submissions were not only received but considered. The Ontario Federation of Agriculture, the Christian Farmers Federation of Ontario, the Rural Ontario Municipal Association and many other agricultural commodity groups contributed tremendously to both the consultation and the development of the bill. Many rural residents took the time to share their concerns and issues and they helped immensely in bringing balance to this legislation.

Many of those suggestions are incorporated in the bill that's before the committee now. The proposed act provides added protection for farmers without overriding or duplicating other legislation and policies designed to protect the Ontario public.

Farmers have told me again and again that their interest in strengthening this legislation is so they can get on with the day-to-day operations of their farms. They have said emphatically that they do not — and I emphasize again, they do not — want a licence to pollute.

Therefore, the new law would continue to be subject to the provincial Environmental Protection Act, the Pesticides Act, the Health Protection and Promotion Act and the Ontario Water Resources Act. Further, it would adhere to cabinet approved policy statements.

At the same time, the proposed act deals constructively with the emerging concerns around unduly restrictive municipal bylaws. That's becoming more and more of a problem. Before its implementation, the ministry, farm

groups and municipalities will be working together to increase awareness among municipal decision-makers about modern farming practices, so that future bylaws can be drafted with full recognition of the demands of running a farming operation.

Under the new law, the minister would be able to issue farm practices policy statements which can also be used by municipalities as guidelines to help in developing new bylaws.

Now I know that some groups have voiced concerns about this particular part of the bill, so let me take a few moments trying to outline why we have included clause 9.

This clause is necessary, in my opinion, to provide guidance to the new Normal Farm Practices Protection Board in their deliberations and to help municipalities draft new bylaws that will conform with the law. By having provincial guidelines, municipalities can draft bylaws that do not infringe on farmers' ability to do their jobs, whether they're in the north, south, east or west of this great province.

The kind of guidance I'm talking about is broad and provincial in nature. It is not a vehicle for the minister, whoever that may be, to dictate to individual farmers how to farm. This kind of leadership and direction is needed to head off potential conflicts between farmers and municipalities before bylaws are drafted.

Another activity we're preparing to undertake is a public awareness program that would focus on the realities of living in rural Ontario. This would be accomplished in cooperation with farm and rural groups. We have to do a better job of informing people who have moved to rural areas that farms are places of business subject to nature's extremes, where sometimes the crop can't wait until after the weekend to be harvested or processed, where at the height of the season, greenhouse operators, for example, have to run their lights all night, where the weather conditions mean that farm equipment could well be running 24 hours a day, and that is common during the rush season.

We must also do a better job of reminding everyone that Ontario's economic roots are firmly planted in our farmers' fields and barnyards and that we all depend on the healthy, wholesome, affordable food supply and all the other non-food products that are produced on these farms.

I know some farmers already regularly advise their neighbors when they will be combining, running equipment such as dryers all night, or spreading manure on adjacent fields. Often the timing of these activities can be worked out to keep everyone reasonably happy.

If this doesn't or can't happen, the staff of the Ministry of Agriculture, Food and Rural Affairs are not only knowledgeable but experienced in helping to mediate and resolve problems between neighbours before the dispute escalates to a major war.

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I also know there are local examples of farmers working with municipalities, providing input into such things as drafting nutrient management plan requirements. In Perth county the local Ontario Federation of Agriculture has representation on a municipal advisory committee. A com-

mittee of farmers has even set up a 1-888 number where local residents can call to report incidents that they believe are outside normal farming practices. When a call comes in, one of the committee members will visit the farm in question and try to resolve the problem to effectively satisfy everyone. These measures are designed to head off needless confrontation before it actually occurs.

The vast majority of conflicts in the past and, I'm confident, in the future will be settled either among the parties themselves or with mediation help from the Ministry of Agriculture, Food and Rural Affairs staff.

If, after all these avenues have been exhausted, the dispute continues, the issue can be brought before the new Normal Farm Practices Protection Board for a ruling on a specific farm practice.

There have been a few concerns raised since this bill was introduced in June that it would leave municipalities powerless to govern their own development. Let's clear that one up too.

First, the Rural Ontario Municipal Association, better known as ROMA, at a meeting here last week in Toronto was very instrumental in the consultations leading up to the bill's introduction and in its development. They were very helpful in bringing a rural-municipal perspective to its design, and requested that the proposed legislation include a mechanism for providing guidance to municipalities wanting to draft new bylaws.

Second, I see application to the board as a last resort. If the board rules that the specific farm practice in question is normal, the bylaw would not apply to that farmer and farm.

Third, we also intend to increase the representation from rural municipalities to the new board. This change would help ensure that a balanced approach is taken to making rulings and that the rights and responsibilities of everyone in rural Ontario are taken into consideration.

In their deliberations, board members will take into account such things as the purpose of the bylaw, the effect of the practice on abutting lands and whether the bylaw reflects a provincial interest as established under other legislation or policy statements.

I have every confidence that the new board will have the experience and knowledge necessary to make fair and balanced decisions.

I believe our approach of putting awareness and education, conciliation and mediation first and backing these measures with strong, clear legislation will be a winner for everyone, because it resolves potentially costly and time-consuming conflicts before they occur and before they escalate.

Bill 146 is an improvement over current legislation for a number of reasons. It clarifies what constitutes an agricultural operation and encompasses more businesses. Farmers who raise emus and ostriches, beekeepers and maple syrup producers, as examples, are added under this new law.

It spells out normal farming practices, which are those that are consistent with proper and acceptable customs and standards followed by the industry.

It adds light, vibration, smoke and flies to the current list of noise, odour and dust as the effects that can be expected from normal modern farming practices.

It includes activities that farmers may undertake on their farms to add value to their own commodities.

N'oublions jamais que notre secteur agricole, qui est fort et viable, renforce notre économie ontarienne considérablement. Je crois fermement, et je sais que beaucoup partagent ma conviction, que la loi proposée sur la protection de l'agriculture et de la production agricole constitue un projet de loi qui arrive à point et rencontre les besoins de nos agriculteurs.

I want to remind everyone, as I like to terminate any presentation, when our farmers and our agrifood business people prosper in Ontario, you know what? We all benefit as Ontarians.

The Chair: We now turn to the Liberal critic, Mr Hoy.

Mr Pat Hoy (Essex-Kent): Good morning, Minister, and everyone in the room. We're pleased to take part in the hearings on Bill 146, An Act to protect Farming and Food Production.

At long last we're at this point. Second reading was held in the last days of the government sitting in December 1997, so we're very pleased that we're able to discuss this bill in committee at this time. We're pleased the government has held this bill over to the next session. Some of you may not know that the government prorogued in December, and often many bills will die on the order paper, such as Bill 78, for example. We're pleased that this government bill, an important one, will continue, and that's why we have these hearings here today.

Most farmers — and indeed I want to emphasize "most farmers" — are protective of the land, the water and the air. Their livelihood depends on it. It depends on all three of those elements. They realize these three elements provide not only for themselves but for their families, so they have a vested interest in safeguarding those components.

Agricultural technology has changed and will continue to change over the years. I can recall when I was young, but then not so many years ago, many farms had a few chickens, had a few hogs, had a few cattle. But now I don't see that in my area, and indeed I don't see that anywhere in Ontario. People who visit my county of Kent from other countries have asked, "How come every farm doesn't have a few chickens, a few hogs," whatever, "in the backyard?" But we've changed and farms are much larger, much more diversified. The farmers protect their land, water and air. In the main, all of them work hard to protect those three elements.

However, some may willingly or unwittingly be working in a way that can be described as not a normal farm practice. Therefore, we need laws. Just as we need laws on our highways to protect those who would flout normal driving practices, we need a law to protect legitimate claims of abuse and we need laws to protect nuisance claims.

The minister talked about provincial interest in regard to some aspects of Bill 146 and how it relates to the farming community, the urban community and municipi-

palities. I hope the provincial interest is not so broad or determined that we harm the agricultural areas. An example of that is when the Minister of Transportation stated that provincial highways were no longer of provincial interest. I hope this minister will fully understand my remarks that provincial interests must remain within the sphere of protecting farming in the rural and urban communities.

These hearings will allow the public to make comments on Bill 146. Rural and urban communities have a key interest in this subject and have indeed been waiting for quite some time to see this bill move along the necessary steps towards becoming law.

We in the Liberal Party look forward to all the submissions and presentations that will be made over the next few days and any written briefs that are sent to the committee. We will look forward to improving this law if it's required by the communities with an interest in Bill 146. I await the presentations today and over the course of the next three days and, as I said, any written submissions that might come to the committee.

The Chair: We now move to Mr Bisson, the NDP critic.

0930

M. Gilles Bisson (Cochrane-Sud) : Je voudrais vous dire premièrement que tout ce qui facilite la vie de nos agriculteurs de l'Ontario, notre caucus NDP en est en faveur. Dans cette instance avec cette législation, on veut travailler avec vous et avec la communauté agricole pour être capable d'avancer avec ce projet de loi. Je pense qu'il répond beaucoup à la situation agricole dans la province.

I was just saying to the minister that anything that makes the life of the farmer and generally the agricultural community an easier thing to do, because we know it's a very tough business to be in, we in the NDP caucus plan on working with the agricultural community and the government in order to make that so. This bill to a large extent tries to deal with some of the very real issues that the agricultural community faces, especially in rural Ontario, basically abutting municipalities, when it comes to some of the bylaws we've passed over the past number of years.

I welcome the comments of the minister. You said, Minister, in your presentation, and I tried to write it down, "We like to consult with people and make the legislation reflect the views of what we heard." I don't want to be critical, Minister, but your government has not really been noted as a government that does a lot of listening to the people, and I hope in this case you will. I know you have a soft spot for the agricultural community. We're certainly thankful for that. I wish you had a soft spot for other communities in Ontario that also need the help of this provincial government. But in this case we will work with you.

I want to go through the legislation because I think a number of things need to be raised and I want to raise them, not in partisanship but in friendship, in trying to find a way of working our way through this. There are under the bill a couple of concerns I'm going to put forward as they were related to me from various people who

contacted our caucus about this particular legislation, both from within the agricultural community and from within the environmental community.

One of them is at the very end of section 1, under the definition "processing." It talks about including "sawing, cleaning, treating, grading and packaging to the extent that these activities relate to products primarily from and are conducted as a part of an agricultural operation." Some people see that as being more than what it really is. I understand as a legislator what the ministry is trying to get at here. You're trying to encompass within this legislation that farmers on their land at times have to operate equipment that may not necessarily be what people associate with the farming community, for example a portable sawmill to cut lumber to build a barn or do whatever it is. You're trying to encompass that kind of activity within the legislation.

Some people have fears that it means a lot more than that. Some people feel that you can add within that scope value added processing that you may have on the farm. We all want to make sure we do value added activity on the farm, but people don't want to see this as a backyard way of being able to circumvent bylaws that would normally apply to an industrial setting.

I know what you're trying to get at. I think the farm community understands what you're trying to get at. I know our caucus understands you're not trying to encompass this as being a lot larger than it is. But there are some concerns out there and maybe a bit of a clarification under the definition might alleviate some of the concerns people have related to me.

The other thing I'd like to raise is under section 6 of the bill, where you're talking about "Normal farm practices preserved." It says under subsection 6(1), "No municipal bylaw applies to restrict a normal farm practice carried on as part of an agricultural operation." Some people see the effect of this being not to allow a municipality to pass any bylaws that deal with it. As I read the bill, and I'll need some clarification on this after, if it's at all possible, the process would be that when a municipality passes a bylaw, a farmer would be able to apply for exemption to that bylaw. It's not a question that the municipality can't pass a bylaw that deals with certain issues that may affect normal farm practices; it's a question that you can apply for exemption. I just need some clarification on that, if you wouldn't mind. That's the way I understand it, and if that's what you're doing, I certainly don't have a problem.

The other issue is under subsection 6(3) — again this was related to me; I'm not going to mention which group because I may have it mixed up — "An application may be made," and that's to the board, of "(b) persons who want to engage in a normal farm practice as part of an agricultural operation on land in the municipality and have demonstrable plans for it." That's for that exemption we just talked about. Some people wonder, "Does this mean to say that somebody who is not operating a farm actively but says he or she may do that in the future may utilize this in order to exempt themselves from bylaws?"

In communities all across Ontario, and I think I can speak of my own riding, and I imagine it's the same in others, we have people who have moved out into the country who do not actively work the farm but they've bought farm land and live on it. Somebody came to me within my riding and said: "Listen, I've read a number of things I've received through the mail from the OFA and others. Does this mean to say that now I will be able to do things that contravene bylaws in my township?" As I understood it, I said, "No, I don't believe the government's intention is to allow somebody who is not actively farming to exempt themselves from municipal bylaws." Reading the legislation, I think I need a little bit of clarification or maybe the language has to be written in such a way that it's very clear. As I understand it, it would be the provincial government's idea that this would not exempt non-active farms; if you're living on a non-active farm and it's a residence, you would not be able to exempt yourself from municipal bylaws.

There is another point that was raised under subsection 6(5), and that's the question of only those who are directly affected being able to go to the board. I as a legislator understand why you're doing that. I think there's some concern that some people, because of the government's record of shutting out the people in a lot of cases — you don't exactly have a very strong record when it comes to the democratic practices of our institutions — see this as an affront on democracy. I don't think that's what it is, but again, we need to be able to clarify what subsection (5) is all about. It's not to allow people who are not directly affected by a bylaw to go before the board and use the board's processes for something other than what it was designed for. That is one of the issues that was raised. I don't know how you fix that one, quite frankly.

The other point I would make, and the very last point, is with regard to the legislation. There is something in section 10 that I have some problems with. Unlike the old act of 1988, which is not all that old, it was the Lieutenant Governor in Council who had the power to make regulations. Under this act, the Minister of Agriculture has the power to make regulations. Again, I think it relates back to the record of this government when it comes to your democratic practices. People in the city of Toronto, people involved in education, people involved in health care, people involved in all facets of Ontario life have not really seen this government act in a very democratic way. It is a feeling that this government does what it wants and, you know, "Damn the torpedoes; we're going ahead." When people see that it's not even cabinet — it's bad enough that cabinet is going to make a lot of these decisions by regulation — that it's the minister himself or herself, there are some concerns on that. As well, the minister is giving himself very big powers, compared to the old act, when it comes to prescribing for the purpose of the definition of what agricultural operations are.

I would feel a lot more comfortable if there were a more open process than just giving the minister the ability to go and decide what is within an agricultural operation, that there is some process; at least if it's an order in council you have to make it public. Whatever decisions

the government has made at the cabinet table, there's a public process of some sort. In this it's not as open, it's not as clear as far as the public is concerned.

I have some concerns in that and I hope that through the clause-by-clause process we can find a resolution to this particular issue. I'm not prepared to vote against the bill on that basis, but I hope because of the fact that we're prepared to support this legislation the government won't turn a blind eye to what is I think again an example of how the government is taking a heck of a lot of power on to itself and on to the cabinet ministers.

I believe, as I think a lot of Ontarians do, and I'm sure many members of the government, the Legislature is here for a reason. Members are elected in order to represent their constituencies and also to serve as watchdogs for the province. One of the things we do in the Legislature, not allowing the ministers the power to make all kinds of changes by regulation and forcing them to come to the House, makes them publicly accountable. I'm sure the government members want to keep that public accountability, as do I within the New Democratic Party, or the members of the official opposition, and I get very nervous when I see the government doing this. If it were a question of this in isolation, I probably wouldn't be as worried, but when I look at the record of the government when it comes to the powers it has given itself under Bills 26, 160 etc — the list goes on — it's coming to the point that the government can do almost anything by way of regulation and there's very little in the way of public process.

I would close on this note. You made a comment that I thought was interesting when you talked about the 1-888 numbers to deal with a person living next to a farm who may have a complaint, saying you'll send an inspector out there to try to satisfy everybody. Actually you didn't say "try" but that you would satisfy everybody. It is my experience in politics that you can't satisfy everybody. It doesn't matter how well intentioned you are, Minister, and you've been at this business as long as I have. At one point this person is going to have to pick a side that either the farmer is right or the complainant is right, and whatever that decision is, there will be one person happy and one person unhappy. But I guess the effort of going out there and trying to resolve the problem before it goes to the board is a step in the right direction.

With that said, I would like to go on. Actually, I just want one other last comment. It's a good one about the OFA. I just want to say, as a member of the Legislature —

The Chair: Sorry. On that note, Mr Bisson, that some are unhappy and some are happy, time is up.

Hon Mr Villeneuve: Which one are you?

0940

ONTARIO FEDERATION OF AGRICULTURE

The Chair: It is time to hear our first presenters of the day. It is my pleasure to welcome representatives from the Ontario Federation of Agriculture. Welcome, everyone.

Please make yourselves comfortable. I'm sure you know you have 20 minutes for your presentation this morning, and that may or may not allow time for questions, as you choose. Please begin by introducing yourselves for the Hansard record.

Mr Ed Segsworth: I'd like to introduce Sharon Rounds, vice-president of the Ontario Federation of Agriculture; Ken Kelly, vice-president of the Ontario Federation of Agriculture; and Réjean Pommerville, chairman of our land use committee, who has worked very hard on this bill for us. I am Ed Segsworth, president of the Ontario Federation of Agriculture.

Thank you for hearing us. You should have a presentation in front of you, which I will be referring to. The OFA believes there is a need for effective farm practices protection legislation. The changing population demographics are creating rural communities that often do not fully understand modern farming or what a normal farming practice is, and the public demands a clean and safe rural environment. The Farming and Food Production Protection Act was developed through extensive public consultation with farm organizations, municipal organizations and government. The Farming and Food Production Protection Act will not be a licence to pollute. Farming practices legislation protects farmers against nuisance court actions.

The definitions of agricultural operations in the act are updated to reflect agriculture today and into the 21st century. We believe "acceptable" brings a more forward-looking perspective to the definition. We fully support the change from "proper and accepted" to "proper and acceptable."

If the board rules for the farmer, he is exempt from the bylaw but it remains in force for all others in the municipality. If the board rules against the farmer, the bylaw stands and the farmer must comply with it.

The Farming and Food Production Protection Act is linked to the new Municipal Act. As far as the board goes, the board can refuse applications that are trivial, frivolous, vexatious or from someone with an insufficient personal interest in the matter. These are reasonable limitations.

Some suggest that appeals be heard by another body, perhaps the Ontario Municipal Board. No other body has the agricultural expertise of the Normal Farm Practices Protection Board.

Dealing with section 9, we do not believe that section 9 gives the minister too much power. We believe the minister will use section 9 only with the support of or on the request of Ontario farmers. Other farm practices acts in Canada and the US have similar statements. Examples from Alberta, Saskatchewan, BC and Michigan are cited in the brief.

In conclusion, legislation replacing the Farm Practices Protection Act must address its shortcomings. We support expanding the list of nuisances, enhancing the "normal farm practices" and "agricultural operation" definitions and instituting a municipal bylaw review mechanism.

Farm practices protection is not a licence to pollute; it simply provides farmers with the assurance that they will

not face nuisance bylaws over normal farm practice complaints. Without effective farm practice protection legislation, farmers face the risk that restrictions will be placed on normal, everyday farming practices because of complaints or injunctions over odour, noise, dust and other nuisances. Such restrictions are not in the interests of all Ontarians.

The OFA recommends that the standing committee on resources development endorse the prompt passage, without change, of the Farming and Food Production Protection Act.

The OFA thanks the standing committee on resources development for this opportunity to comment on the Farming and Food Production Protection Act.

I am going to turn it over to Réjean Pommerville. Réjean is chairman of our land use committee, and he will add a few comments now.

Mr Réjean Pommerville: I think what's important with this piece of legislation is that it is legislation that is a balance. We didn't get everything we wanted, but it is a piece of legislation that is probably going to satisfy almost everybody in the farming community when it comes to really protecting their industry, which is the second-biggest industry in Ontario.

As you can see in our presentation, agriculture is extremely important to the province. It is said in the preamble to this legislation that farming is recognized as a very important industry in our province. It's extremely important to say that, to make people aware that agriculture is not just a way of life any more but an industry that has to be protected. That's extremely important, and this legislation does state that in the preamble.

I'd like to reiterate that this is not a licence to pollute. It's extremely important. A lot of people are saying that this legislation will give farmers the right to pollute, and it's not the fact. It's not written anywhere. It will not give the farming community the right to pollute. It's written right in there.

Nuisances and disturbances: We had odour, noise and dust in the past, and now we're trying to add light, vibration, smoke or flies. There are some reasons we are adding those. The Farm Practices Protection Board had to hear some cases with regard to some of those disturbances or nuisances, depending on the way you look at it. Some cases were heard in the last 10 years, and it is important that we have those in the new legislation so the board has the power it needs to hear those complaints.

Codes of practice and best management practices: The farming community has made tremendous improvements in their farm practices in last 10 or 15 years, and it's going to continue to progress towards an environmentally more sustainable agriculture. It is important that people understand this. Farmers have done great in the past and are going to continue to do so. We do have a more open "agricultural operation" definition. It is important, especially when you start talking about value added on the farm. This has to be recognized and it is recognized in this bill. We're seeing farming as an industry now. In the future, it

may be a niche market or stuff like that. It has to be recognized that it's extremely important.

0950

We fully support the change from "proper and accepted" to "proper and acceptable." I think it's a more proactive way to define what is normal farm practice, but at the same time I'd like to say that the Normal Farm Practices Protection Board is the only body that should decide what is a normal or not a normal farm practice. They are the only people who have the expertise to tell in a case if it's a normal or not a normal farm practice.

Municipal bylaws: We see what's happening in the countryside with the new Municipal Act. It is extremely important that we have this piece of legislation to address this. This may be part of the law that could affect the farming community. As you are aware, some big cities might be part of the new Municipal Act. Some new council might not know exactly what is a normal or not a normal farm practice, so we have to have an avenue to deal with that.

We had a big consultation with ROMA on this, and we agree that we have to have this in this act to protect us in case some people or fringe groups try to pass bylaws that might restrict normal farm practice. We hear of some cases in the Niagara region or anything like that, that special groups might try to pass municipal bylaws that might restrict normal farm practice. After a hearing, if a farmer feels he has been restricted in his practice, he will have an exemption from the bylaw but the municipal bylaw will stand per se.

The object of this is only a last resort. In the past, we know at the municipal level that council had passed first, second and third reading of a bylaw on the same night, without proper consultation with the farming community. The idea behind this is to have proper consultation with the farming community in the countryside. This is extremely important for us and I think it is recognized in this bill that we'll have an exemption, but only up to a certain point. Negotiation is the first and foremost important thing.

Transportation bylaws: I'd like to address this a little bit, especially in the poultry industry. A lot of people have concerns that because of noise from the trucking industry at night and stuff like that, they were not allowed to go and get the poultry. It is important that this problem be addressed. I think that in this section the act does address this.

The Normal Farm Practices Protection Board is extremely important. It is extremely important. It has done tremendous work in the past. I think there are going to be some additions to the board. If we are going to deal with municipal bylaws, there is going to be some municipal representation added to this board. It is important, and I think people will recognize that if we're going to be trying to deal with municipal bylaws in the future, municipalities and ROMA and so on have to be present at this board. It is recognized in the bill.

Section 9: You are going to hear a lot about section 9. We do not believe that section 9 gives more power to the

minister. Some people might say, "We don't have any problem with the current minister, but maybe the next one is not going to have such good regard towards agriculture." I have more faith than that in the present Minister of Agriculture and either in the past or the future. We've had good ministers of agriculture. I think it is important that this section be maintained because we need the balanced approach. We need the support of ROMA. If we don't have municipal support on this one, when it comes to section 9, we're not going to have this piece of legislation. It is extremely important.

I could go on, but I'd like to leave some time so we can answer some questions. I'm sure you have some questions for us. Thank you very much.

The Chair: Thank you. There's time for brief questions from each caucus. We'll begin with the government caucus.

Mr Harry Danford (Hastings-Peterborough): First of all, thank you for the presentation this morning. With respect to the Chair, perhaps I'll address some remarks to Réjean, because Réjean was part of the consultation from the very beginning, certainly in trying to develop what was necessary to have in an improved bill, and he was part of it when we brought back some draft considerations and that sort of thing. You've been through the whole process. Given your comments this morning, do you feel that in essence this bill does cover that and provides that balance that you mentioned earlier in your presentation? Do you think it needs amendments? I'll be very forthright: Do you really think it needs amendments or what is your position? I know I'm putting you on the spot, but I would like your opinion.

Mr Pommerville: I don't think it needs amendment at this point. It seems a balanced piece of legislation. What we believe is that in any kind of legislation there are pros and cons and good and bad, but this is a balanced piece of legislation. The farming community needs this new legislation to resolve some of what was maybe lacking in the previous one. I think it is basically a good piece of legislation for the farming community.

The Chair: We move to the Liberal caucus.

Mr Hoy: How much time do we have?

The Chair: About a minute and a half.

Mr John C. Cleary (Cornwall): I would just thank you very much for the presentation. My colleague just asked you a question about amendments, and I guess you answered that for the present time. Out in rural Ontario, every farmer I know wants to protect the water and air and have safe food for the residents of Ontario and the world. I know there are two sides to every issue and I'm interested in hearing some of the presentations over the next few days, but you figure at this time that the bill is satisfactory and doesn't need any amendments. Is that correct?

Mr Segsworth: Yes.

Mr Hoy: I'll be very quick. Could you give me an example of a bylaw that would apply to everyone in a municipality but not to the farm community? Have you thought through just what one example might be in that regard?

Mr Segsworth: I think it's laid out in the brief. Under "Transportation," there's a bylaw there that would restrict trucks from travelling on municipal roads, and they could not go in and pick up chickens and that type of thing from farmers without an exemption.

Mr Hoy: Good example.

Mr Bisson: Thank you very much. What I was going to say at the end of my last presentation was that I went through the document you sent to my office and I really appreciate the work that went into this. It's very well laid out. It explains very clearly what your expectations of the bill are. It answers a lot of the political questions around some of the issues that have arisen around this bill that other people have raised and I think it speaks to it directly.

One thing I appreciate is that over the past number of years, OFA and I think generally the farm community have done a much better job of going out and talking about what they do well. I think that for a long time we were more concerned about what we do on the farm and how we operate our individual operations and maybe didn't understand quite as well how important it was to go out there and, quite frankly, boast about some of the good work that is done on the farm and some of the practices we have.

Coming to that, when I read the bill I understand it exactly as you understand it, that in no way can this bill be interpreted that other laws will not apply in regards to the application of this act. Is it a question that maybe the agricultural community hasn't done as much as it needs to do to go out there and talk to the greater public about the work you do and that quite frankly a lot of environmentalists are farmers?

Mr Ken Kelly: A couple of things perhaps, Chair, based on Mr Bisson's wonderful support for the brief we had prepared.

Mr Bisson: You wrote it, right?

Mr Kelly: Actually, no. We've got wonderful staff people who do these things for us.

I wonder if it might be appropriate to enter our full brief in the record at this time.

As for the question, certainly farmers are very proactive environmentally. I think you'll find, if you look at any of the press that's been developed around many of these issues, that there are people who understand what farmers do for the environment and that there are people who don't want to understand what farmers do for the environment. I only need point to a recent award the farmers of Ontario received for the environment from the government of Ontario. There are some people who apparently want to make issue out of things that no issue need be made of.

The Chair: With that, thank you very much for coming before us this morning with your presentation. We appreciate your advice and your support.

Mr Pommerville: Madam Chair, I would like to have this letter of support from the Russell County Federation of Agriculture presented to you this morning.

The Chair: That's excellent. The clerk will pick that up from you.

Colleagues, just so you know, the next presenter, the Haldimand Federation of Agriculture, has been forced to cancel. They have indicated they will send a written brief instead. That means, unless the Christian Farmers Federation is present — I don't think they are — we will take a recess until 10:20 and resume hearings at that time.

The committee recessed from 1001 to 1003.

YORK REGION FEDERATION OF AGRICULTURE

The Chair: Colleagues, we are going to pretend that time has flown, because our presenter for the 11 o'clock slot from the York Region Federation of Agriculture has been kind enough to make herself available to present early. With that we will resume and welcome Virginia McLaughlin as their representative.

Ms Virginia McLaughlin: My name is Virginia McLaughlin and I am president of the federation of agriculture in York region.

Thank you for providing this opportunity for the federation of agriculture in York region to present to you their support for Bill 146, An Act to protect Farming and Food Production.

Over the course of these hearings and in the written submissions you will hear and read, a variety of opinions from a variety of sources will be made. Many of these will be very learned and speak at a technical level that is beyond my expertise. I am here today as a farmer and as the chair of the York Federation of Agriculture representing farmers in the region. I speak with that voice.

Despite the perception of some, agriculture is alive and well in York region. In fact, according to the 1996 census, the value of farm production in the region is up 26% in the last 10 years. Farmers in York region produce \$170 million annually in primary sales, and I believe the multiplier that's usually used is six to one. York and its GTA neighbour Durham are the two largest agricultural counties between Toronto and the Quebec border. Not bad for a region with a population of 650,000 people, growing at approximately 4% per year.

Agricultural enterprise in York is diverse. Many are familiar with vegetable production in the Holland and Keswick marshes and the equine business centred in King township. But York region is also home to the traditional farm activities of dairy, beef and crop production and the non-traditional such as wineries. There are world-class livestock breeders, intensive poultry producers, large cash crop operations, orchards, soft fruit growers, greenhouses, on-farm markets and many more.

In real estate there is the maxim of location, location, location, and in York region our proximity to markets, the consumers not only in our own region but also in Toronto and beyond, has provided opportunities for entrepreneurship, especially in the areas of on-farm marketing that are behind the significant increases in the value of agricultural production that I have mentioned.

But these same opportunities also provide challenges, challenges of farming in such close proximity to the urban

or non-farming rural neighbour who does not understand that the romanticized image of farming and rural life is not today's reality. Farming is tough enough without the constant fear of trivial, vexatious or simply misguided legal challenges. We welcome the government's recognition that farmers farming responsibly should be able to do so without the fear that such things as noise, dust, light, vibration and other byproducts of some normal farming practices will result in nuisance damages.

It is my understanding that the intent of Bill 146 is to replace the current legislation, the Farm Practices Protection Act, with new legislation that reflects the current environment in which we as farmers conduct our businesses. It is my understanding that this legislation is not proposed as a licence to farmers to pollute or to operate in contravention of other legislation such as the Environmental Protection Act or the Pesticides Act. Rather, it is intended to be a prospective and forward-looking piece of legislation designed to deal with the rapidly changing nature of the farming business. With respect, to those who would argue that farmers are just waiting to take advantage of the increased coverage that is afforded in this new act, I would say that they do not know the same farmers I do.

Farmers are stewards of the environment. They have to be, or they would soon be out of business. Farmers are constantly changing and modifying their farming methods in order to reflect the best current knowledge of farming practices. Farmers are in business for the long haul and it is not in their best interests to pollute or exploit their resources, whether they be soil, water, buildings, financial or whatever. The Normal Farm Practices Protection Board has at its disposal the ability to determine what constitutes a normal farming practice, and the process has worked well in the past to ensure that environmental issues are appropriately dealt with.

Farmers are not fools. They are aware of the increasing pressure the consumer places on them to produce in a way that minimizes herbicide, pesticide and other chemical use. Livestock producers are aware of the public's concern for animal welfare. They know that if they wish to stay in business they need to respect these viewpoints. I see from the schedule I received that you will be hearing from AgCare. I did not see the Ontario Farm Animal Council on the list. These two groups are actively raising awareness among the farm community of the various issues of concern to the public. This helps ensure that farmers are aware of and responsive to consumers' concerns. Farmers educating, supporting, monitoring and regulating farmers is the best way to ensure that farmers continue to be good stewards of their enterprises.

1010

On a realistic note, farmers are no different than the rest of society. Most, by far and away the vast majority, are responsible, contributing, law-abiding citizens. Like their urban cousins, they are doing their part to build a society that reflects the values we treasure as Canadians. No amount of restrictive legislation will stop the bad actor, urban or rural, from doing things to their best

advantage with no regard for their neighbour. This legislation provides, I would argue, a balance between the right of the farmer to farm and the rights of society.

We support the flexibility that is built into the legislation that allows for certain changes by regulation rather than by amendment to the legislation. This allows for timely response in a rapidly changing industry. In fact, when I was doing my research for this presentation, I was surprised to learn that such things as fish farming, game farming, maple syrup and tree farming were not included in the existing legislation. If entrepreneurship is to be encouraged, then it must be supported, not hindered, by the legislative framework within which it operates.

As I mentioned at the outset, it was not my intention to dwell on the technical details of the legislation, but rather on the philosophical underpinnings. I trust that I have conveyed to you a sense of the importance of agriculture and the agricultural community in York region. With the increasing pressure of urbanization, this legislation will provide in a proactive way a level of protection against trivial, vexatious or misguided actions as present and future farmers endeavour to produce the food we eat, the plants we enjoy in our gardens and the other fruits of the land.

I would be happy to answer any questions.

The Chair: Thank you very much for your presentation. We'll begin with questioning from the Liberal caucus, about four minutes per caucus.

Mr Hoy: Good morning and thank you very much for your presentation. The notion that this bill — and it's an incorrect notion — will give the farming community the ability to pollute or get into that manner is not correct. I hear your plea that this be made known.

In the fourth paragraph of the bill it mentions that it balances the needs of the agriculture community with provincial health and safety and environmental concerns. So it's right up front that this bill is not going to allow the farm community to pollute. I say to you that I have had some urban people bring up that very issue and I think your organization locally and your parent organization should make it very clear that none of us here around this table would permit that to ever take place.

I'm curious and interested that you say your region, with a population of 650,000, is growing at the rate of about 4% per year. That growth, I will assume, is mostly urban or non-farmers in a rural area. Is that correct?

Ms McLaughlin: It's certainly mostly urban. There is some expansion in the rural areas but basically it's urbanization and it is mostly in the southern part of the region in land that is slated for development in the official plans.

Mr Hoy: The region itself has a large population to begin with, and then you have growth at 4% per year. I would expect that both communities, rural and urban, are looking for some guidance in regard to what is the normal farm practice and other issues within this bill. Have you had representation made to you as a rural person from urban people who are interested in this?

Ms McLaughlin: No.

Mr Hoy: You spoke about, "No amount of restrictive legislation will stop the bad actor," either urban or rural. However, it's my position that we will need legislation to update and change the legislation, for agriculture and life in Ontario for all persons. I think what we need after this is an enforcement mechanism for those bad actors you are talking about who may exist. In part and parcel with Bill 146, we need to have enforcement. I know in my community the Ministry of Environment has not acted promptly in some cases where it was deemed that the action was not normal, and I think enforcement is critical here as a companion idea with Bill 146.

Ms McLaughlin: It was my understanding that the process was working quite well. I attended one of the consultations for this bill in Barrie and we had very interesting presentations in terms of how the process actually works. It is my understanding that if a complaint is made, it's either made through the Ministry of Environment or through OMAFRA, and that staff work very closely with the person who complains and also the farmer to find out the basis. If there is something that needs to be done, they work to see that's done. Things only get to the level of the board if there appears to be nothing that can be done. I don't have the numbers in my head, but I do believe there are very few cases that actually get to that level. It can always go to the courts after that if the complainant feels they are not getting a satisfactory hearing.

It was my understanding that the various issues were satisfactorily and well being dealt with at the initial level. In fact, my thinking is, from my understanding — I have never been involved myself so I don't have firsthand knowledge — that it works like an alternative dispute resolution mechanism, which I think is quite laudatory: Try to keep things out of the courts and deal with them at the firsthand level.

Mr Bisson: On that note, I agree with you. That's something our government, the former NDP government, had worked quite a bit on within the Ministry of the Attorney General, to move to that, to try to keep a lot of these cases out of the courts. Our courts run at over-capacity, so we need to try to find mechanisms. I think this legislation tries to do that. That's a good goal.

I just want to clarify, first of all, and then I have a question, something that you said and something that was said by the Ontario Federation of Agriculture. In the last part of your brief you talked about, "With the increasing pressure of urbanization, this legislation will provide in a proactive way a level of protection against trivial, vexatious or misguided actions." What you're referring to is a section of the bill under section 8 that says the board can refuse to hear an application if it's deemed to be vexatious or frivolous. I just want to point out that was in the existing bill in 1988. It was in subsection 5(4) of the 1988 bill. So that's not a new concept. That's something that was there already in the existing legislation. The government has, almost word for word, copied that and I think we understand what that's all about. I just want to clarify it.

I want to raise something else because you touched on it at the beginning of your presentation. You didn't get into it directly, but I thought that's where you were going and that's why I wrote this down. That's the whole issue of the urban crawl that we see on to agricultural land. We know the provincial government early on in amendments to the Municipal Act very much diluted the provincial policies that protect agricultural land from urban crawl. Especially in your situation in the farm community in York, what are your impressions about what the role of the government should be, and the ministries of agriculture or municipal affairs or whatever, to protect that agricultural land? Is it your fear that in the long run a lot of our agricultural land will be in jeopardy?

Ms McLaughlin: I wouldn't want to speak at the global level because I think it's beyond my particular expertise. In York region under the last government, your government, there was an official plan process, as you know. I would say, to my knowledge, that the development that is taking place in York region is all development that was in the York region official plan and the municipal official plans that were part of that whole process.

People being what they are, there will always be an attempt to kind of nibble around the edges, but I would suggest that to my knowledge, York region and the municipalities are being quite faithful to their official plans, which designated land in a certain way that would be used for development.

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Mr Bisson: In speaking to people — mostly in the Niagara area; not so much in the York area — there's a real concern that there is a large pressure of urbanization and also industrialization of our agricultural land, and I share that. I know that immediately it's not a big problem, because there have been policies in place that protect that plan. But with a number of repeals of protections we have, there is a danger in the long run. I'm just wondering if you, from the farm community, think that's possible in the long run. Should we be more concerned, or do you think just leaving things the way they are would be fine? I guess that's the direct question.

Ms McLaughlin: I'm here on behalf of the federation and it's not something we have discussed at our meetings. I could give you a personal opinion, but that wouldn't be fair to them because I'm here representing them.

The Chair: We have two questioners from the government caucus, Ms Munro and Mr Beaubien.

Mrs Julia Munro (Durham-York): Thank you very much. It's certainly a pleasure to see you and hear the comments you have to make. I want to come back to this issue that has been a recurring theme this morning, and that's the question of balancing agricultural and urban concerns. Obviously, as the previous comments were made, you and I both know that York region is really a flashpoint, if you like, for that kind of concern. I wondered whether you see a role for the York federation in protecting the balance that exists right now.

Ms McLaughlin: You mean the balance of legislation?

Mrs Munro: I guess I'm thinking in terms of promoting and creating greater awareness.

Ms McLaughlin: Yes, I do, very much. In fact, it's one of the things the federation has really put an emphasis on. We are a decreasing band of volunteers. Basically, there are fewer and fewer of us, so it becomes tough to do everything that needs to be done. But certainly the federation has a tremendous role to play in raising the awareness of agriculture in the region, of raising awareness of some of these issues that have been talked about today and that Mr Hoy mentioned we should be doing, of educating our urban neighbour. In fact, we and our GTA neighbours have a unique opportunity, because we live literally across the road from our consumers, so we do have that unique opportunity.

Mr Marcel Beaubien (Lambton): Thank you for your presentation. I would also like to point out that this government does listen to the constituents. I think this is a perfect example of how well this government listens. We did consult with over a thousand people during the pre-bill discussion we had with the farm communities, farm people and rural communities.

You're quite right when you mention that this bill will not impact on health, safety and the environment. I think that was one of the key issues we had to deal with on this bill.

You mentioned in your presentation, "Rather, it is intended to be a prospective and forward-looking piece of legislation designed to deal with the rapidly changing nature of...farming." I realize it's very difficult for the opposition to own up to the fact that life is changing, that the status quo is no longer acceptable and sustainable.

I have one concern, that there is at times conflict between the rural and urban communities. I feel sometimes we maybe don't do a good educational program with regard to educating the urban people moving into a rural area, whereby we have to make them realize that there is dust, there is noise in downtown Toronto or other communities. Do you feel that the federation, whether it's the OFA or your own organization, could play a more important role in educating the public at large?

Ms McLaughlin: I can't speak for the Ontario federation, because it's a provincial organization, but they recognize that education is an important part of their mandate. But they have many other issues to deal with besides just education.

As I said to Ms Munro, certainly for us in the urban fringe in the GTA, and I'm sure the same would hold in the Ottawa area and perhaps around Windsor and also London, we do have a real role. I think it is also a partnership with the government, because we have limited resources. Basically, the money we have to spend on such things is raised by the farmers through a levy and through our membership in the Ontario federation, and some of that comes back to the local level.

In York we look carefully at how we spend that and we do support education; we support the pizza project and we support the work at the Markham Fair, where 80,000 people come to essentially a country fair every fall. We

put a lot of energy and effort into the commodity displays there.

We can't do it alone, it's too big, and as I said before, the smaller we get the harder it gets. So I think it is a partnership among the federations, the commodity groups and the government. But we have to do it. It's very positive, because we get along better with our neighbours when we know each other and understand each other. If you live in a more typically rural county, you don't have that opportunity because you have to travel so far to do it. But in the regions of York, Halton-Peel and Durham, as I said before, our urban neighbours are right across the road. Our kids go to school with them; our kids play hockey with them. We do have a wonderful opportunity, but it's not inexpensive and it is time-consuming.

The Chair: On behalf of all the members of the committee, may I thank you for taking the time to come before us this morning with your views and ideas.

CHRISTIAN FARMERS FEDERATION OF ONTARIO

The Chair: I now call upon representatives from the Christian Farmers Federation of Ontario. Please come forward and make yourselves comfortable.

Mr Bob Bedggood: It's a privilege for us to be here today with this presentation. I'm Bob Bedggood, the president of the organization. With me are Jasper Vanderbas, the vice-president of the organization, and Elbert van Donkersgoed, the research director of the organization. Elbert will be making the presentation, and Jasper and I hopefully will be able to answer any questions the committee has after the presentation.

Mr Elbert van Donkersgoed: Thank you, ladies and gentlemen, for this opportunity. I'll just quickly read our presentation.

The CFFO strongly supports the original goal of this legislative initiative: strengthening protection for farm practices. This support is firm for both protection from nuisance complaints about normal farm practices and the overzealous restriction of normal farm practices by municipalities.

The CFFO endorses the Farming and Food Production Protection Act as a significant step in creating increased protection from nuisance complaints for our farming practices. It is an important step forward in keeping rural Ontario open for the business of farming. This legislation goes a long way towards balancing the interests of rural residents with farmers' continued ability to grow and deliver food.

The CFFO endorses the Farming and Food Production Protection Act as an appropriate process for establishing exemptions from municipal bylaws that restrict normal farm practices.

As municipalities gain new powers due to offloading from the province, it is important to have legislation which provides some counterbalance to restrictive bylaws. As a result of municipal restructuring, there will be fewer farmers on municipal councils. As farm businesses move

into value added activities, some municipal bylaws can cause serious problems for the development of these activities.

Some problems that have emerged include sign control bylaws — size, location, and in some cases totally prohibited — limits on the size of a bed and breakfast, limits on type and size of processing, limits on the number of people employed in the value added part of the farm business, defining fences as buildings, limits on the size of roadside stands, regulations for outside storage and regulations about parking for clients and employees.

The CFFO has decided to live with the change in the definition of "normal farm practice" from "means a practice that is conducted in a manner consistent with proper and accepted customs and standards" to "means a practice that is conducted in a manner consistent with proper and acceptable customs and standards."

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The change increases the standard. In the context of a growing rural concern about some farm practices, this is appropriate. This says to the rural resident that "normal" is not just what we have always done. We will meet modern standards and use currently available technology to reduce nuisances.

The fact that this creates some risk of future governments changing the meaning of "acceptable" is a risk we agree to take, with some hesitation. Governments generally have a good history of consulting farmers but we are cautious about assuming that this will always be the case. We have some reservations about the wisdom of this change. The change in definition raises the question, acceptable to whom?

We strongly support the case-by-case approach used by the Farm Practices Protection Board in the past. This results in the specific circumstance being a significant factor in a finding of "normal." We are concerned that "acceptable" will lead to the notion that provincial standards can be developed.

The CFFO emphasizes that this new legislation is not a substitute for good land use planning. The need for an act such as this demonstrates that municipalities have not been doing good land use planning. The pattern of scattered rural development and the current existence of many vacant rural lots make increased protection a necessity.

The CFFO regrets that the government was not willing to require disclosure statements about the possible discomfort and inconvenience of normal farming practices from all sellers of real estate within two kilometres of farming operations and farm land. However, we accept that an awareness program and voluntary disclosure is a step in the right direction. Educating buyers of rural properties in agricultural areas will minimize land use conflicts. It is important to make sure that people who buy a house in the countryside realize that farming can produce noises and odours they may find unpleasant.

CFFO members have a serious problem with section 9 of Bill 146. We request that you amend Bill 146 by removing the following:

"Guidelines, etc

"9(1) The minister may issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices and the board's decisions under this act must be consistent with these directives, guidelines or policy statements.

"Adoption by reference

"(2) For the purposes of subsection (1), the minister may adopt, in whole or in part, directives, guidelines or policy statements issued under other acts or by another ministry."

The CFFO does not have confidence in the province's commitment to agriculture. For the past quarter century there has been an urgent need to protect the best farm land in Ontario for agricultural purposes and to keep the countryside open for the business of farming. The province has allowed urban sprawl and scattered rural severances to continue, eroding the long-term potential of our best lands and our business investments.

Guidelines have not worked. The Food Land Guidelines of 1978 are the best example. If it were not for five municipalities taking it upon themselves to write official plans with real concern for agricultural land, there would be even more lots in rural Ontario waiting for builders. We recognize that the new provincial policy statement under the Planning Act has given some new tools to municipalities that are committed to protecting their best land, but we are still a long, long way from a policy that will break the pattern of cities rolling out farther on to the best land and of scattered development up and down our concessions. Where it really counts, the province is not firmly committed to keeping Ontario open for the business of farming.

In our view, there is no point in the province trying to create directives, guidelines or policy statements on or in relation to normal farm practices or agricultural operations if it is not prepared to do the essential: protect the land itself.

The consultation process leading up to the legislation strongly disapproved of the idea of mandatory provincial codes of practice. Guidelines are not significantly different from codes of practice.

A directive, guideline or policy statement will be a political decision and will limit the ability of the new Normal Farm Practices Protection Board to mediate controversies and to make a determination on a case-by-case basis.

The present Farm Practices Protection Board has a successful track record with a case-by-case approach. Once there are provincial policy statements in place, the board will need to see its previous interpretations of those statements as precedents, even if the practice of farming has already moved on to other approaches.

If someone is not satisfied with a decision of the Normal Farm Practices Protection Board, they can do an end run of the board by going to the minister to ask for a political directive. A minister could on his own become interventionist and issue statements on subjects that are not at issue before the Normal Farm Practices Protection

Board. We are concerned that the present minister may be pressured to use these powers to wedge investor-driven mega-farms into our countryside. A future minister with roots in the rural affairs part of the ministry might bring a very different agenda to the proposed powers than does the present minister.

A major power is being granted to the minister in the bill, but what this power is for is unclear. There has been no public discussion or documentation of directives, guidelines or policy statements that the minister needs to regulate agricultural operations.

This will create an opportunity for the civil service to become prescriptive. There is a recent history of the civil service writing extensive guidelines when given the opportunity. Under the previous government, implementation guidelines were drafted for the comprehensive provincial policy statement adopted under the Planning Act. That resulted in a four-inch-thick binder of guidelines.

Normal farm practices will always be in a state of flux as farmers try new technologies and management practices. A directive could soon be out of date or simply wrong. Creating directives and policy statements will create an opportunity for the courts to get involved. The Normal Farm Practices Protection Board's interpretation of a minister's directive could well be challenged in a court of law. Does the directive in fact state what the Normal Farm Practices Protection Board has taken it to mean?

Municipalities have expressed an interest in provincial directives, guidelines or policy statements. Municipalities are sending messages to the province that they want guidance for dealing with large livestock facilities. They would like the province to deal with the controversies that are developing by giving them a cookie-cutter bylaw to adopt. In other words, municipalities want the province to take care of the controversies for them. This is quite inconsistent with (a) the request from municipalities for more authority to guide their own development, (b) the commitment by the province to give municipalities more authority to guide their own development and (c) the expectation that municipalities deal with the controversies around siting landfills.

OMAFRA's present role as a mediator will be dramatically curtailed. The vast majority of nuisance complaints and other concerns are now resolved by mediation long before they get to the Farm Practices Protection Board. OMAFRA and the Ministry of Environment and Energy are key to that mediation. OMAFRA can now say, under the present bill, "We can do no more for you than mediate." Why would an aggrieved citizen accept mediation from OMAFRA when OMAFRA has the power to fix their problem for them? The Ministry of Environment will be the only credible mediator if Bill 146 becomes law as is.

Finally, we have a concern about property rights, ours and our neighbours'. A minister's directives, guidelines or policy statements in relation to agricultural operations are likely to impact property rights. That requires due process,

an opportunity for appeal and usually compensation. The act provides none of these.

Some of the CFFO's member think tanks drafted an amended version of section 9 with concern about property rights in mind. On two occasions our provincial board debated this concept. Both times the idea of supporting an amended version was defeated. Our members simply want the section removed.

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In summary, keeping Ontario open for the business of farming starts with the protection of the best land. Bill 146 by itself cannot do so.

The CFFO strongly supports the original goal of this legislative initiative: strengthening protection for farm practices. The CFFO believes that the bill will do all that can be done without section 9. Actually, we think the bill will function better without this clause.

The Normal Farm Practices Protection Board should make its findings on a case-by-case basis and not be subject to political direction. Farm practices are in a constant state of flux. Flexibility is needed for our enterprises to succeed. Thank you.

The Chair: Thank you very much. We have about three minutes per caucus and we'll begin with Mr Bisson.

Mr Bisson: I was out of the room but I had read your brief and gone through it. We've only got three minutes. I'm not as concerned with section 9, as you put forward with regard to the minister's powers, as I am with section 10. I'm wondering if you can maybe look at section 10 and give me some comment.

Section 10 does two things. First of all, in the old legislation any regulations were made by order in council, which means cabinet had to deal with it. In this legislation now the minister has the right to make regulation. The second part is that the minister can expand the definition of what an agricultural operation is under his own power, unlike what was in the old legislation. I'm wondering if you can comment on that as well, because I noted you only spoke to section 9 in your brief.

Mr van Donkersgoed: It has not been an issue in our meetings. We're not uncomfortable with the minister making this thing work once it's there. It really is, is there going to be political policy? Is there going to be policy set around "normal"? Are there going to be directives of how we do the business of farming? In terms of how everything actually works and is structured and making this board work right and who goes in front of it and who does what, we can learn to work with that. We don't find ourselves concerned about that.

Mr Bisson: All right, because section 10 deals with the powers of the minister, and I noticed in your brief you had dealt with that under section 9.

Mr Peter L. Preston (Brant-Haldimand): In 9.11 of your brief you make a statement and I can't really find out whether you're on the side of — well, you tell me. Which side are you on here? It's just a statement without a conclusion, as far as I can see. What is your conclusion about 9.11: that municipalities should be providing more

authority or municipalities should be in charge of the urban sprawl? Is that the conclusion of 9.11 in your brief?

Mr Bedggood: Someone has to be aware of the problem that urban sprawl creates. Urban sprawl is probably the biggest reason for the need to have a good farm practice protection. In Ontario and in Canada we are unsure today of the value of productive agricultural land and we should very quickly address the thought that agricultural-productive land is very important. Our ability to produce food and fibre is very necessary and we're losing that land at a phenomenal rate. We are on the side of protecting productive agricultural land.

Who does it, that's a very difficult question. In the past when we have left it to municipalities, at times they have done a very poor job. I think our organization would say we need some protection from a provincial government point of view. We worry about the number of severed lots in the country today and we worry that it will continue.

Mr Preston: If the provincial government were in charge of deciding on land use, what form would it take?

Mr Bedggood: I don't think we're probably ready for the land bank idea yet but we're getting very close to that. The provincial government must prevent development on that prime productive land. It's wrong to use it up. We're not making any more land.

Senator Sparrow said in 1984 that we're losing land at the rate of about 26 acres an hour in Canada. That's a phenomenal amount of land. We only have about 5% of our land that is productive. It's in a very serious state and I think the provincial government must address that problem today.

Mr Jasper Vanderbas: On the other hand, sir, the Bible teaches us that a rock makes a very good foundation. We seem to have a fair bit of that in Ontario.

Mr Preston: Yes, I understand, right.

Mr van Donkersgoed: The reality is that farm entrepreneurs in Ontario need only somewhere between 8% and 10% of the land base for us to be productive and remain productive, because that's the best land. There's room for both but we haven't figured out how to stop that urban sprawl just rolling out, or that scattered development going around each concession, putting a row of houses up and down the concessions. That's going to take serious political will and that's got to be a combination. From where I sit, it has to be a combination of provincial will and municipal will, but without the provincial will, the municipal will is very weak.

Mr Hoy: Good morning and thank you very much for your presentation. You have indeed spent quite a bit of your time on section 9. You are probably aware that the AgriCorp legislation, as I will phrase it, allows the minister to give directives to AgriCorp. It also requires that AgriCorp provide a business plan to the minister. At the time of that legislation we moved an amendment that was turned down by the government to make those public, both the minister's directives to AgriCorp and the business plan from AgriCorp to the minister. It wouldn't be done immediately; it would perhaps be tabled in the House.

There are some parameters, but in essence we would say somewhere around 90 days after.

If it is the government's desire, and they have all the boats in this regard as to amending this bill or changing it completely, would it help your organization if the directives of the minister in regard to clause 9 were made public?

Mr van Donkersgoed: We've been assuming that they will be public. Our full assumption is that if this goes forward, anything would be public, and I would assume there would be some consultation with the public. Our assumption is that they would be public.

Mr Hoy: That's an assumption.

Mr van Donkersgoed: We have no reason to think otherwise. If that were the case, our concern level would mount dramatically, even more than our concern is right now.

Mr Hoy: It would be more so. Yes, I understand.

Mr van Donkersgoed: Our concern is on what it does or how the whole bill will function, and we say with that in there this process will not be good mediation in the countryside.

Mr Hoy: So you're very firm in your position here. I appreciate that, and in that we are at this stage of the bill, it is wise to know all of those views that you have.

In regard to informing people who move into rural areas, who should be responsible for that? There has been some discussion in the public domain that it should be farmers, it should be real estate people, it should be government. Who do you believe should be doing the informing in this regard?

Mr Bedggood: Right now we have a real problem. I read in Saturday's paper the ads for rural properties, and it's, "Moving into a park-like setting." They come into the country and they think they've moved into a park and they forget they've moved into an industrial area. In many municipalities today, if you move into an area that has floodplain on it, lawyers must put a disclosure in it that indeed you are unable to build on part of your property because it's floodplain. We see the same type of thing for agriculture. You have moved into an industrial-agricultural area: We may create some dust and some noise and we may work past 5 o'clock at night. Probably the vehicle would be via disclosure on the legal document on the offer to purchase — probably. We don't know that, we haven't looked at that, but we think disclosure would be an important first step, because what we find now is that people come into the country and suddenly discover that I make noise and dust on my farm.

Mr Vanderbas: If I may add to that, I just came back from a visit to Iowa State University, and in Iowa they have no restrictions on swine buildings. Anybody can build a swine barn wherever he sees fit. Humboldt county has brought in front of a US court — they're being challenged. They asked for a bylaw to ask for a performance bond from farmers. That's not where we want to go. We want to live in harmony with the neighbours. Maybe municipalities can do it better than the province, but somebody ought to do it.

The Chair: Gentlemen, thank you very much for coming before the members of the committee this morning with your suggestions for this bill.

Mr Bedggood: Thank you very much for the opportunity.

1050

ONTARIO PORK PRODUCERS' MARKETING BOARD

The Chair: I'd now like to call upon representatives from Ontario Pork, specifically Mr Moore. Welcome. If you would please begin by introducing yourself and your guest for the Hansard record.

Mr Carl Moore: Thank you very much. I'm Carl Moore, chairman of the Ontario Pork Producers' Marketing Board. With me this morning is Jean Howden, our executive assistant.

Madam Chairman, Minister and MPPs, Ontario Pork welcomes the opportunity this morning to make this presentation on Bill 146. Ontario Pork, as representatives of the pork industry, view this as a most important piece of legislation, both for the present and for the future agricultural development here in Ontario.

A little bit about the pork industry in Ontario: We have about 6,000 pork producers spread across the province, a preponderance of these from probably Guelph-Kitchener west. Last year we had about \$687 million contributed to the economy from the sale of market hogs, probably an additional \$100 million or better in sales of feeder hogs that were moved to the United States, so a very significant contribution to the economy.

It's estimated that with the add-on jobs — processing, trucking, trade — we have contributed an estimated 42,300 jobs and something around \$4.5 billion of economic activity to the province.

As representatives of the pork industry, we feel that our mission is to create the most favourable environment possible for the production and marketing of pork and to maximize returns for Ontario producers through cooperative action.

I might just add here that in 1997, Canada exported approximately \$1.3 billion worth of pork products. This has grown by 10% to 15% a year for the past several years. The Asian countries, even with the mild case of Asian flu that they have had in the past few months, continued to be a very dominant market for Canadian and Ontario pork. We feel that we have some of the best quality pork in the world, we have some of the best processing facilities, and we have the trading infrastructure in place to do this. We feel that it would be an absolute tragedy if the pork industry in Ontario — Canada generally but Ontario in particular — were not allowed to develop the expertise that has been garnered over the past many years and to continue to increase our industry.

Having said that, we are very aware of problems that have taken place, mainly we hope in other jurisdictions. I think most of you are probably familiar with a 60 Minutes

program a number of years ago on some manure spills in North Carolina. This has become more or less a benchmark for environmental groups saying that if we're producing pork, this is what we are going to do.

We believe in Ontario that this is certainly wrong. We do not in any way condone or encourage any type of management practices that would pollute our environment. We live in the environment. We feel that pork production is a biological balance whereby feed grains are processed through pork. Hogs do produce manure, manure does have all essential nutrients for plant production, and providing a nutrient management plan is put into effect whereby the amounts of nutrients that crops are taking out of the soil are put back in by manure, we have a biological system that is really without equal. We can therefore minimize our reliance on imported fertilizers and nonorganic products. So we feel that really the future of the pork industry in Ontario is very bright.

We feel that Bill 146 gives us the ability to expand our production on an economically and environmentally sound basis, and it will not tie our hands unnecessarily by unreal demands from other people who live in the rural community but who are not involved in agriculture or in pork production.

The Farming and Food Production Protection Act will not be a licence to pollute — far from it. Federal, provincial and municipal legislation and regulations will protect both the rights of farmers and the general public, and that is as we want it. We do not want farmers to be protected so that any member of society can say you have a right to pollute. We do not want a right to pollute. In fact, we actively reject any suggestions that we should have any special preferences over the rest of society. We want to be responsible citizens.

Ontario Pork is fully supportive of the proposed amendments to the current Farm Practices Protection Act. We fully support the wording and inclusion of the preamble in the act, which states the purpose of the statute and the intentions of the authors of the legislation.

We support the expansion and the inclusion of additional nuisances such as light, vibration, smoke and flies to the current odour, noise and dust. These nuisances do not threaten life, health or the environment. Farm practices legislation protects farmers from court actions under the common law of nuisances, and this we commend you for. Because agriculture in all its aspects, particularly crop production but even livestock production, is very seasonal in nature — practices like manure spreading have to take place in the spring, in the fall, when best nutrient use can be made — it may well be that we do have to work long hours. There may be some odour; there will be some odour. We do not apologize for this. This is part of the industry of farming. But at the same time, we appreciate the protection this act would give us from nuisance lawsuits.

It will allow farmers to apply to the Normal Farm Practices Protection Board for an exemption from municipal bylaws both present and future that unnecessarily restrict a normal farm practice. This includes bylaws that

prevent vehicles from using certain roads at specific times of the day.

Section 9 of the act deals with the minister's power to make changes to the regulations. This is a standard inclusion in many government statutes, including similar legislation in other provinces and states. We believe the minister will only issue the directives, guidelines or policy statements referred to in section 9 with the support of Ontario's farmers. To do otherwise would be absolutely foolish.

The board's decisions should be consistent with these directives, guidelines or policy statements. At Ontario Pork we have had a long tradition, spanning some 55 years, of dealing with the Ontario Ministry of Agriculture, Food and Rural Affairs, its predecessors and the Ontario Farm Products Marketing Commission. We realize that at any time we operate under the jurisdiction of this legislated body and government. We have not found over the 50-some years any unnecessary interference due to government and we feel that this long history gives us a great deal of confidence that under section 9 the minister and the government of Ontario will act responsibly.

Municipalities should be able to call in the Ministry of Agriculture, Food and Rural Affairs for assistance in drafting bylaws that do not restrict normal farm practices to assure their continued support for the Farming and Food Production Protection Act.

1100

We are also supportive of having a warning statement on land titles to alert buyers that they are moving into an agricultural area, with the inherent noise and some of the inherent nuisance factors that might be deemed by some areas. We realize that this has some legal implications that probably have to be investigated.

The Farming and Food Production Protection Act will provide hog producers and the industry with the assurance that they need to continue to farm in the future without nuisance lawsuits over normal farm practices. OPPMB is proud to support the government in Bill 146 and we would like to thank the standing committee for the opportunity to express our support for this act.

The Chair: Thank you very much. We have three minutes remaining per caucus. We'll begin with the government caucus.

Mr Danford: Thank you for your presentation, Mr Moore, on behalf of your group. Certainly I was pleased to hear you say again that farming in general and agricultural people who are involved in it are not there to pollute. That was made very clear to us through all the consultations from the very beginning from every farming group. I'm glad to hear you reinforce that again this morning.

To be more direct, I have one question perhaps with section 9 and you have commented on it as well. Certainly normal farm practices and what happens in the agricultural field continuously change. I think we who have some knowledge of the organization and agriculture in general recognize that. In order to provide some flexibility, which was brought up many times during our

consultation in preparing this bill, the minister would have some opportunity to provide those directives and provide that flexibility and direction. Do you see that as a problem, and if there is any problem with that avenue, then do you see another way that that flexibility could be incorporated?

Mr Moore: I would say we don't see it as a problem at all. In fact, we view it as very much a protection. I've used this example in a number of presentations: having a grain dryer at home. The neighbours might think, if they moved in from an urban area, that running it 24 hours a day is a nuisance. We believe this would protect us here. We believe that the minister would not make a directive to shut that down. If such an item were not included, that urban person could very well go to a lawyer or a number of lawyers. People in agriculture have had that experience. A court order might be obtained to shut down that grain dryer for the duration of the season. I believe we would win the court case in the end but it might well be a whole season of grain drying that would be gone before we did. We believe this bill stops that happening and still allows all citizens their full legal rights and responsibilities.

Mr Danford: So you feel it's an appropriate and responsible way to deal with that?

Mr Moore: We do, and probably one of the most efficient ways we can think of dealing with disagreements that will take place.

Mr Hoy: Thank you for your presentation and your comments throughout. The warning statement on land titles I take as a good suggestion.

What we're seeing in Ontario now are rural and urban partnerships in terms of municipalities. I happen to live in one known as Chatham-Kent. At one time there were 23 municipalities; now we're down to one. There are those governing within that municipality who believe they are now a city, even though the land mass is 92% agricultural. I haven't been able to verify this, but in attending the latest ROMA convention, there was no one from that municipality. So maybe that enforces the idea in their minds that they're not rural.

I think there needs to be greater discussion on how we will notify people that they are in an agricultural area, if indeed small towns exist which are not zoned agricultural. We have megacities being created in Ontario. There may be people who move into an area that isn't zoned agricultural and just simply have not been informed. If we're going to do this right, I think we have a little bigger job than just looking at this at first blush as to who will be informed that they may be near an agricultural area with all the nuances of agriculture.

Mr Moore: We could not agree more and we would ask the government, opposition, whoever, to try to put as many labels on there as possible. Again, we don't want special status. We just want the status that any other industry has with zoning bylaws right across the province, whether in a city or rural area.

Mr Hoy: Another question would be in regard to section 9. You were in the room when the previous group said it believed that directives and guidelines and policy

statements coming from any minister would be made public. It doesn't say in the act that they would be. Would you like to have an inclusion that these directives, guidelines etc are made public?

Mr Moore: I would not see, again, reflecting on our history over the years, any reason that the minister would not make them public. I can't think of any correspondence, anything — we have had dealings with the Farm Products Marketing Board, that type of thing — that we or they would not make public and I would hope they would, yes.

Mr Hoy: Then the notion that a previous minister would abuse section 9 is not really relevant?

Mr Moore: I cannot find any evidence, no.

The Chair: Colleagues, we have no questioners from the NDP. Is there anyone who wishes to have further questions? No. On that note then, on behalf of all the committee I'd like to thank you for coming before us with your suggestions on this bill.

That concludes our presentations this morning. We will reconvene this afternoon at 1:20.

The committee recessed from 1107 to 1324.

TIMISKAMING FEDERATION OF AGRICULTURE

The Chair: Good afternoon. The standing committee on resources development is called to order for our afternoon session. We're going to begin this afternoon with a presentation brought to us by way of video-conferencing from New Liskeard. Our presenter is Mr Kidd, the president of the Timiskaming Federation of Agriculture. Mr Kidd, can you hear me clearly?

Mr Carman Kidd: Yes, I can.

The Chair: Welcome. We can see you very clearly and we can hear you. I know it seems a bit lonely in the room you're in right now, but there are about 30 people here who are ready to pay very close attention to what you have to say to us. You have about 20 minutes for your presentation.

Mr Kidd: Thank you very much. We have a prepared statement I'll read to you. The Timiskaming Federation of Agriculture is an affiliate of the Ontario Federation of Agriculture and on a local basis represents the interests and concerns of more than 300 registered farmers in Timiskaming. We appreciate this opportunity to offer these thoughts to the Ontario government standing committee on resources development.

With farm-gate sales in excess of \$30 million annually from the Timiskaming farms, the TFA believes that protection of the rights of farmers to produce food without fear of harassment or intimidation or any other form of interference by neighbouring farm owners is important to the continued existence of the farming industry. The TFA firmly believes that well-defined normal farming practices must be protected within this legislation, and at the same time appropriate penalties must be available for farmers operating beyond the normal definition and causing discomfort or inconvenience for neighbouring property owners and threatening the safety of the environment.

As the rural areas of Ontario adopt changes in local government structure, it would seem important for the provincial government to take the necessary steps to ensure that local committees of adjustment have farmer representation within their makeup. Without such representation it is conceivable that land severances for the convenience of urban residents would be allowed and bring an increasing number of urbanites into the farming community. If this were to happen, the implementation of Bill 146 would become even more critical. With farmers on the local committees of adjustment to provide input into land severance decisions, conflicts between urban and rural residents within the farming community could be reduced.

Since the original Farm Practices Protection Act was implemented in 1988, major changes have taken place in the farming areas of Ontario, with the introduction of new technologies and accompanying farming practices. Many of these changes point to the importance of updated legislation to protect the rights of farmers to carry on their businesses without interference from neighbours concerned with noises, dust, odours, and other possible annoyances or disturbances that are bound to come from even normal farming operations.

Responsible farmers do not view Bill 146 as a right to pollute any part of the rural environment. Farmers have a history of respecting the environment, wildlife and the land they depend on for their living. For those attempting to operate outside the accepted norms for modern farming, there is legislation to protect the environment, other citizens, wildlife and all lands. As an example of the dedication of today's farmers to the environment, one only has to look at the increasing level of participation in the environmental farm plan program.

With the promise of a new Municipal Act and because of the strong links between rural municipal governments and the farming communities, it is important that Bill 146 be enacted by the government of Ontario in order that modern farming practices are defined and protected from nuisance complaints and the like at the same time as municipalities are taking on new powers and responsibilities.

The TFA supports the position of the Ontario Federation of Agriculture regarding the inclusion of a warning statement on land titles in agricultural areas. Without these warnings, newcomers to a rural agriculture area, taking the opportunity to live with your urban comforts in an agricultural area, could buy a property without being made aware of the consequences of life in a farming community. The consequence could be nuisance complaints and legal battles, the sort of things that farmers want to avoid at all costs.

The recommendation of the Ontario Federation of Agriculture that appointments to the Farm Practices Protection Board be made on a staggered basis also has the support of the TFA. This practice would ensure a higher level of continuity in board actions and decisions and avoid the possibility of all members being replaced on the board at the same time. Both of these recom-

mendations could become part of Bill 146 without amendment to the legislation, would make the legislation a more workable tool for all sectors of society and would permit the speedy passage of the legislation.

With these points in mind, the Timiskaming Federation of Agriculture feels it's appropriate to urge the standing committee on resources development to recommend the legislation in its present form for immediate passage when the Ontario Legislature resumes sitting.

We also thank you for this opportunity to participate in this process. We want to let it be known, however, that farmers across northern Ontario would still prefer the opportunity to participate face to face with this committee through the staging of public input sessions in this area, accessible to residents of all northern Ontario.

We also received a fax last night from the Rainy River Federation of Agriculture, from Kim Defferre. I'd like to read it as well. She wasn't able to participate in either the committee meetings or this teleconference.

"Dear committee members:

"The Rainy River Federation of Agriculture is a strong voice for the Rainy River district farmers. We are supported by over 150 farm family members, representing over 50% of the farmers in the Rainy River district. We are a grass-roots organization of farmers working for farmers and we represent all the diverse types of agricultural production found in the Rainy River district. On behalf of these farmers, we support Bill 146, the Farming and Food Production Protection Act, 1997.

"Our area is sparsely populated, and we welcome rural residents who recognize the realities of modern agricultural production. Many new rural residents have no direct personal link with a farm, resulting in a lack of understanding of modern, everyday farming activities and practices, and we feel that farmers must be able to carry on their normal practice without interference. We feel Bill 146, the Farming and Food Production Protection Act, 1997, justly addresses that issue.

"Thank you for this opportunity to address your committee.

"Yours truly,

"Kim Defferre, President, Rainy River Federation of Agriculture."

That's all I have prepared at this point. I'm open to any questions.

1330

The Chair: We have about three minutes for each caucus for questioning. We'll begin with the Liberal caucus.

Mr Hoy: Good afternoon, Mr Kidd. I had the opportunity before I was elected in 1995 to visit New Liskeard. It is indeed a wonderful farming area. I enjoyed my visit to the area very much.

The use of teleconferencing is getting to be a newer practice with committees. I, for one, wouldn't want to see it happen over and over repeatedly. I discussed this with the government members and I did agree with them to use it on this occasion — I wouldn't say that I did not — considering weather and other ramifications, and actually

to give us a chance to move ahead and deal with Bill 146 after this great length of time that the bill has been before us. It was brought to the House in June of last year and here we are into 1998 and the bill has not been passed or amended. I just put that to you, that I wouldn't want to see teleconferencing used in great detail over and over again. Quite frankly, the audience here can't see you because there aren't enough televisions, although I think we have agreement that in future that would take place.

You're quite right in your remarks that this does not give farmers the right to pollute. With regard to what I believe you said was a warning on land titles, I wonder if you could give us a little more insight into that. I would call it advice on a land title rather than a warning, but perhaps you didn't use the word "warning."

Mr Kidd: Just going back to my own experience, I have been reeve of Dymond township for the previous six years and we just rezoned a piece of property along the lake there that was agricultural. We actually put a note on the land title saying that it was adjacent to farming areas and that they would have to be aware of normal farm practices when they were buying those pieces of property. I think that's something that's very important that we have to start putting on there, because there are a lot of small areas of urban population that are building up around the rural areas. Out near my place, I have probably about 12 different residences along the other side of the highway that have been allowed over the years, and that has become the norm across all Ontario. These people have to be made aware that there is a normal farm practice going on across the road from where they live.

Mr Cleary: Some of the earlier presenters had some concerns that with the amalgamation of municipalities, municipal councils would not be able to get an equal number of council members from rural Ontario and the agricultural community. Is that a concern to you?

Mr Kidd: Yes, it is. We're seeing a lot more rural people not wanting to take the time to join the local councils and we're getting more and more people from the small residential areas taking up the full number of chairs on the rural councils. Dymond council alone has one representative from the rural area; the rest are all from a small residential pocket. That's happening all over, whether it be some of the small lakes areas where the lakes residents are coming into the rural councils as well, and you're getting fewer and fewer voices on the local councils that are actually from a farming background.

Mr Cleary: You, a reeve and a farmer, are in a good position to help correct that. I was a reeve for many years too, and you try to strike a balance. We heard that this morning. Surely in your area you can do something about that and make sure that there is the right representation in the Timiskaming area.

That's all I have. I was concerned because I had thought that might be the case out in Timiskaming, knowing the area and knowing the member of the Legislature from out there. We have talked about these issues many times.

Mr Kidd: As people get more and more busy on their local farms trying to make a living, they don't have the time to go into local politics. That's one major problem. We're trying to get new people involved. But if they're already too busy in some of their local farming operations and some of the local committees, they haven't got time to go into local politics.

Mr Preston: Mr Kidd, welcome to our meeting. The Christian Farmers this morning indicated that they felt the provincial government should have a hand in dictating what happens to farm land to prevent it from being turned into urban sprawl, and then this afternoon you've said that the province should get involved in deciding who should be on the committee of adjustment. As a past reeve, does this not run counter to what we have been trying to do in putting the decision-making back in the municipality?

Mr Kidd: No. I think the local municipalities are quite aware of what impact the agricultural community has on their local areas and I think they're very aware that they must keep in mind what's going on in the agricultural community. Most rural municipalities make sure they do have appointments on the committee of adjustment from the rural sectors, from all sectors really, and they keep a very even balance.

In Dymond, three representatives of the four of us are actually from farming backgrounds, and I think they realize that on a local basis. It may be helpful to mandate what percentage has to be from a farming area. I don't think we need to have the actual provincial government come in and mandate who is actually appointed, but it still can be left in local hands as to who the appointments are made with.

Mr Preston: Then I misunderstood. I understood you to say that the provincial government should see to it that the mix is there.

Mr Kidd: I think you should probably mandate the actual mixture, make sure there is a farming representative on those committees. That's what I'm saying. If there's a panel of three in a very rural area, then probably two of the panel of three should be from the farming area. That may have to be mandated from the provincial government.

Mr John O'Toole (Durham East): First I want to make a comment on the videoconferencing. I think it's another increased means of communicating with the people of Ontario. We have had a number of faxes, in fact the fax from Rainy River. We have had information from Brant, from Niagara and from all over Ontario, places which we would not visit. We're visiting you just in another forum or venue today. I would hope that as you look to the future, that is saving taxpayers' money and yet allowing us to have today face-to-face dialogue. I thank you for your input.

Second, I'm very supportive — we heard from the pork producers this morning that they also made note of the need to have some sort of statement on the bill of sale or some legal document on the sale of rural property. I gather that you, from your perspective, support at least alerting the potential buyer to the fact they're moving into, as they called it, an industrial workplace, albeit the agricultural

community. Would you like to see it in the legal documents on title, or just as a notation that a real estate person would be required to make this disclosure statement?

Mr Kidd: It probably has to go right on to a legal document with the land title itself, or a mixture possibly. A lot of these are going to require private wells, private municipal systems or private sewage systems versus being tied in with some of the local sewage systems, and that has to be put on title, that they will never be in a position where they will be allowed to tap into the municipality's water and sewage systems because they have already agreed that they'll be using their own water, their private well system and their own private septic system.

The same ties in with the land use as well. They're adjacent to farm land and they've got to realize that and agree that they're not going to be put through nuisance suits; just normal farm practices. Whether their practice is driving by at 10 or 11 o'clock at night, this is something that is done normally.

The Chair: Mr Kidd, that concludes the time we have today for presentations on the teleconferencing line, so on behalf of all the members of the committee here today, we would like to thank you for taking the time to make your presentation all the way from New Liskeard. It was a pleasure hearing from you and we appreciate your input.

1340

TOWN OF OAKVILLE

The Chair: We come back here to greet our next presenter, representing the town of Oakville, Jennifer Huctwith, the associate town solicitor. Welcome.

Ms Jennifer Huctwith: I thank you for the opportunity to speak to you today. You have been provided with a copy of a summary of our concerns and I want to outline some of those concerns for you.

Oakville is a community which has both a strong urban community and a strong rural community. As such, we are a community that values the rural aspect and the concerns you are trying to address through this legislation, but we also have concerns that the legislation as drafted goes beyond what you intend and impacts matters which are of concern, particularly in our urban community.

The section that brings us the most concern is subsection 6(1) of the legislation, which provides, "No municipal bylaw applies to restrict a normal farm practice carried on as part of an agricultural operation." We understand why you might have concerns in agricultural areas regarding this. However, our concern is that it will (a) apply to our zoning bylaw, and (b) apply to other municipal bylaws such as noise and nuisance bylaws in urban areas, if the legislation remains as drafted.

The most important concern we have has to do with our zoning bylaw, and it is for several reasons. The first has to do with assessment impact; the second has to do with land use planning impacts.

There is a long history of disputes between municipalities and developers regarding assessment issues. Many of the rules have now been set, either by the new rules

under the Fair Municipal Finance Act (No. 2) or through litigation between the parties, but zoning remains important in this process. It's no longer determinative if the new rules are as I understand them to be. However, it is still important.

When municipalities plan, we put in infrastructure, we make all these arrangements so that development is possible. Zoning bylaws are what we put in to make the use legal after all the other planning development approvals have taken place. When municipalities commit themselves to the infrastructure, both the initial financing of it and the ongoing maintenance, the assessment revenues we receive from these lands are important to us. It's essential to municipal financing that, to the extent possible, such development is paid for by those who are requiring the development rather than by existing taxpayers.

What happens with zoning bylaws is that zoning bylaws prevent the process from going backwards. If, under a zoning bylaw, a farm use is not permitted — this is in the urban areas I'm talking about — then the municipalities can stop the farm use in this inappropriate area and retain control of the assessment revenues. The town of Oakville has been involved in litigation on this matter quite recently, both on the assessment front and on the land use planning front. The Ontario Municipal Board recognized this fundamental connection between land use planning and assessment, and as drafted, this act would prevent us from stopping the farm practices and therefore stopping the farm use.

The other area of concern we wanted to address was with regard to land use impacts. Again, we understand your concerns within rural areas. However, this legislation is not limited to rural areas. The bill itself recognizes that there are incompatible uses, that there are complaints regarding farm uses, that there are conflicts. Zoning bylaws help to minimize those conflicts by determining which uses will be placed where, so that the uses which are most likely to complain about farm uses are far away from agriculture uses. To protect those uses which would suffer impacts, zoning bylaws should be exempt from the application of this legislation.

To understand why zoning bylaws don't cause the concerns that I believe you may perceive them to, you need to understand what a zoning bylaw is and how it works. Zoning bylaws don't prohibit existing uses. Existing farm uses can continue to exist even after we've zoned an area away from agriculture to some other use. Zoning doesn't pose any threat to existing agricultural uses. It's only new agricultural uses or different agricultural uses which would be limited by zoning. There is therefore very little harm in allowing zoning bylaws to have a complete exemption from this legislation.

What I'm suggesting is that there be an exemption as was contained in the previous legislation regarding zoning bylaws. If that is not acceptable to you in that you won't achieve your goals, then at minimum, the application of this act should be restricted to rural, agricultural areas, where agricultural uses are permitted. Even in agricultural

areas, especially where there is the border between rural and urban use, that's where most of your conflicts exist. If municipalities can have the ability to restrict the uses that are on the border, that provides us with some assistance in this process in ensuring that all our residents have minimum impacts and that there are minimum complaints against agricultural uses.

As I indicated, my submissions are in more detail in the presentation I provided to you. I thank you for the opportunity to speak to you today.

The Chair: Thank you very much.

Colleagues, I was remiss in indicating that Mr Bisson mentioned before we broke that, because of a death in his family, he might not be able to join us. I can see he doesn't have a colleague to replace him on short notice, so I'll be splitting the time between the two caucuses. That means we'll begin with the government caucus for questioning.

1350

Mr O'Toole: Thank you very much for an interesting perspective on this. It is different than previous questions or comments. Specifically, if I could boil it down very quickly, you're really thinking of the fringe or marginal areas between the rural and urban components. Very broadly, this is where you've zoned for subdivisions or whatever already in your official plans, and certain developments have taken place. Is that important, that kind of marginal relationship between urban and rural?

Ms Huctwith: The fringe area is where you have most of your conflict because you put the two uses together the closest.

Some of my concerns have to do with things right within our urban area. The area we were litigating about last year is located between Winston Churchill and Highway 403, Dundas and the QEW. There are some farm uses within there. In those types of areas, any agricultural use can be inappropriate because dust can have large impacts if you have a drug company, a computer company, a chemical company, anything like that. The smallest agricultural use could have concerns.

This legislation would prevent us from regulating those uses, even the sections within section 7 where we would be unable to restrict times, if we were trying to make these uses compatible with the existing uses which have the business uses. One of the uses within that area has time delivery to Ford Canada and must get through the roads at certain times. If we were to restrict the agricultural use to other times when it wouldn't conflict with that company, this legislation would prevent that.

Mr O'Toole: Yes. Your point is quite different from what we heard from New Liskeard and other parts of the province. This second part is the assessment impact. I am understanding that if you are assembling land for development, under our new Assessment Act there are provisions for that very issue of land for development where it takes on a different value because of development and approval processes, and therefore the municipality, or in your case the town, can really place more taxes on the property through property classes.

Ms Huctwith: The rules change. That's why in the materials I've provided to you, I indicated that the range was 65% to 98%. Currently, what happens is the taxes are approximately 2% of what they otherwise would be, a 98% discount. For land under development or farm land pending development, if there is a plan of subdivision registered, then the discount will be, I believe, 65%, so they'll pay 35% of the taxes.

For some of the lands which are lands under development which we have those designations for, they still have to be farming them to get those farm lands under development, and we can stop the farm use for those. For some properties where municipalities maybe had investments in infrastructure, particularly in certain cases where the development charges did not apply at that time, and the sewage treatment plants have been sitting there and have been maintained by the assessment revenue, and it is important that they continue to be maintained by that assessment revenue, the municipality has an interest in stopping farming.

For properties where we don't yet have the registered plan of subdivision, if we can have assessment revenue we can invest more in infrastructure, knowing we can have assessment revenue from it. So there are classes. It is improved in some ways because it does exempt, or it provides a lesser subsidy to farm lands under development, but it doesn't end the issue.

Mrs Munro: I appreciate, as Mr O'Toole mentioned, that obviously you're bringing a different perspective to this discussion. I wondered if you could just clarify a couple of issues, to have a better understanding of the situation in the town of Oakville. Can you give us any idea of the percentage of land that is currently zoned agricultural?

Ms Huctwith: I can't give you an idea of the percentage. I can give you an idea of the area if you're at all familiar with Oakville. The land north of Highway 5, Dundas, is all agricultural. Everything below that is urban.

Mrs Munro: Do you have an official plan that would identify long-term? You referred to the kinds of problems you see where you have the question of a buffer or the need to have a buffer. I just wondered how this is reflected in your official plans.

Ms Huctwith: It is reflected in the official plans. However, with a municipality such as Oakville where development is taking place and the development comes out from Toronto, there is a large push for it to expand northward, so the expansion will continue northward. There is pressure on us at this point to look beyond Highway 5, so in those circumstances you can't always deal with buffers, although you do provide for it.

That's the kind of thing I was dealing with. With the border you might want to establish more benign agricultural uses close to the buffer area. If you are going to have the type of agricultural use that would have more impact, it would be established further north, further away from it.

We have official plans. We haven't divided our agricultural uses into different types at this stage. It's just one big agricultural area. But that may become relevant as time goes on and the legislation would prevent it.

Mrs Munro: I want to go back to something on page 3 where you talk about, "It is only when the existing agricultural use stops that it cannot be resumed." This is really my lack of understanding here. Are you talking about where zoning changes have been made, or are you talking about where it's still zoned but has fallen into disuse?

Ms Huctwith: After a zoning change there is a concept of legal non-conforming use. You can keep doing what you were doing until you stop. If we change it to industrial, we can't make you start industrial uses and you can continue your agricultural uses. In those cases it's not prohibited by the zoning bylaw, so it's legal. There's nothing you could do and the agricultural use could continue. If it had the most impacts, there is nothing we could do about it, but that's something we recognize.

Mr Hoy: Good afternoon, as I collect my next thought on what you were describing just now. Picking up from where you left off, is it not my understanding that a new agricultural use could not be started under this zoning? If they're involved in an agricultural activity and the zoning changes, they can continue to do that and may continue to do it for some time, but they may not start some newer type of agricultural activity.

Ms Huctwith: That's correct, but you need to understand how the zoning changes as well. There are provincial policy statements supporting agriculture that municipalities must have regard to when they change zoning. Agriculture is protected through that realm as well. If we take the agricultural use out, it's taken out for good reasons rather than just on a whim. It would be based on the other uses surrounding it and other factors, such as protection of the assessment within the area when it's already been taken out into an urban area. Unless you want to put some new use in a particular area, as opposed to the areas where it would be permitted, I don't see why you need to restrict zoning bylaws.

Mr Hoy: I would just make the comment that some years ago I took a tour in the Oakville area and beyond. I was amazed, just as a point of my amazement, on that trip where we drove and drove and drove, and then I was told that none of this land was owned by the individual farmer who was living there. They may not be owned by the city, but by others. It's just a comment I make to you. I found it extraordinary that you could drive that far and the land, in some half-hour's drive, was not owned by anyone who was farming.

Ms Huctwith: We recognize that much of our land is subject to developers who wish to use it at some point for other purposes.

Mr Cleary: Thank you for your presentation. I was going to ask the same question Pat asked, that most of your problem is with land that I understand is owned by the city and by non-farmers, by developers. Is that correct?

Ms Huctwith: Could you repeat your question? I'm afraid I didn't understand it.

Mr Cleary: My question was that I understand most of the land you're talking about is owned by your city and by non-farmers; in other words, by developers who have it in a holding, agricultural zoning?

Ms Huctwith: Not entirely, no. The town doesn't own this land. Some of the land within our urban area is owned by developers and they are farming it. With some of the land north of that, I'm uncertain who owns it, but it is being actively farmed and the farmers in those areas would have the concerns which may have been reflected by other presentations. There is legitimate farming going on in north Oakville. There's less of it than there used to be; however, there is farming going on.

Mr Cleary: These are developers who rent their lands out. Is that correct?

Ms Huctwith: I have no idea who owns the lands north of Dundas. I am aware they are increasingly owned by developers.

Mr Cleary: I've heard that for many years. That was my question.

The Chair: Thank you very much for coming before us. You've brought a new perspective to the discussion around this piece of legislation, and we thank you for bringing your ideas forward.

1400

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

The Chair: I'd now like to call upon representatives from the Canadian Environmental Law Association. Welcome. Please introduce yourself for the Hansard record.

Mr Paul McCulloch: I'd like to thank the committee for giving us this opportunity to speak to you today. My name is Paul McCulloch. I'm with the Canadian Environmental Law Association, more commonly known as CELA. CELA is a legal aid clinic that was founded for the purpose of using and improving laws to protect the environment and conserve natural resources.

We have a long history of participation in agricultural law reforms, including the original Bill 83, which produced the first Farm Practices Protection Act, and consultations last spring. We've also been heavily involved in land use planning reforms over the past 10 years which have a significant agricultural component.

Many of our past and present clients are farmers, and we have worked with the farming community and understand many of their needs. We regularly receive calls from individuals throughout Ontario who have concerns about farming, and a number of those calls are from farmers.

I have put in a written submission, which has a summary on the first page, and I'll probably just refer to that.

Our main submission is we are actually opposed to this bill, and I'll summarize the primary objections in a

moment. Basically, we don't understand the need for the bill. In the very first paragraph, the preamble states that, "It is desirable to conserve, protect and encourage the development and improvement of agricultural lands."

This act is designed to protect practices, after it says that in the preamble, not land. The loss of agricultural land to industrial, commercial and residential development occurs because of loss of ownership rights and changes in land use designations, not from pressures due to nuisances. Furthermore, the law of nuisance in the past has done an excellent job of protecting farmers and has been their friend more than their foe.

It begs the question as to why we need this bill at this time. I'll return to that question at the end, because I believe as I go through my three main points here that question will be answered.

The first point is that Bill 146 brings about some changes to municipal planning, which the previous presenter from the town of Oakville I think addressed very well. Sections 6 and 7 propose to provide immunity to farmers from bylaws. Municipal bylaws or zoning bylaws are the outcome of public process and represent the interests of a community as a whole. It doesn't seem fair to allow one individual farmer to avoid this process.

If the government truly wants to protect agricultural land and you want to do it through a planning process, then the solution is quite simple: You bring in strong policies and guidelines to preserve agricultural land. You protect it from urban sprawl and you designate prime agricultural lands as off limits to development. In fact, with the passing of Bill 20 in 1996, the exact opposite happened. A number of the policies under the Planning Act were actually made weaker.

There's another change here bringing about a chance to challenge bylaws. What is happening is the planning process is becoming even more complex. In our opinion, allowing individual farmers to challenge bylaws on an ad hoc basis, which is what this bill is suggesting, is unfair. It's going to unduly complicate the planning process. It's going to lead to chaotic, disjointed and uncertain planning processes. The idea of planning is you want to be able to plan. You want some certainty. If one individual can challenge a bylaw down the road — and this act, Bill 146, allows farmers to retroactively challenge bylaws that are already in place today — it's going to create a great deal of uncertainty for communities that are trying to develop official plans.

The second point is the change to nuisances. Bill 146 plans to expand the definition of what types of agricultural operations are insulated from nuisance claims. Again, I'm not certain why we need these changes. There has not been a sudden and drastic increase in nuisance claims against farmers that I am aware of and that my research has been able to pull out. The Farm Practices Protection Board was created in 1988, and up until 1997 there were only 12 cases. We're getting a whole new bill for what to me appears to be 12 cases. If I could get a bill passed every time I had 12 cases cross my desk, that would be

great, it would be a very busy place around here, but we don't get that.

Similarly, there is no evidence that the courts have been handling nuisance claims, in our opinion, in an inappropriate manner. A nuisance claim requires the courts to consider the context in which the claim is brought. Very few actions have ever succeeded against a farmer, because courts recognize the nature of farming. I'm not convinced that there is a problem, that farmers are facing an onslaught of nuisance claims. I unfortunately missed the presentations this morning by the agricultural community. If they have demonstrated that, then I take it back, but I would ask the committee to ask for that to be demonstrated.

As someone involved in law, I find the definition of "normal farm practice" disturbing, because it shifts the focus from what is considered reasonable and proper, which is historically what nuisance has been, to now what is normal, and the definition of "normal" is if other people are carrying out a similar activity. This makes me think of when I was a kid and my friends would be able to go out and do things and I'd ask my mom if I could and she'd say no. I'd get mad and then she'd look at me and say, "If your friends wanted to jump off a cliff, would you do it too?" This is the same type of rationale, when you say a normal farm practice is what other farmers are doing. We'd prefer to see a definition that's either based on "reasonable" or "proper." The worry we have about the definition is that the types of practices that will become normal could include some very environmentally damaging processes.

Quickly, there are two changes in society which need to be raised as well to place this bill in context. One is that the nature of farming is moving away from family-owned and -operated farms to large-scale, even corporate, operations. This raises a concern for us. The other is just that the government downsizing that's going on has been particularly strong against the Ministry of Environment. This bill assumes that the Ministry of Environment will be there to protect against agricultural practices which are environmentally harmful, and in fact the ministry is really stretched to the limits and violations by farmers are a very low priority. So it could be up to individuals and communities to protect their own environment.

When I take this as a whole, the act protects practices, not land, and immunity from bylaws is not a sound means of planning; it is going to lead to a very chaotic form of planning. Nuisance laws have always protected farmers, and we would strongly support that. We have no desire to see nuisance laws change to not protect farmers, but this goes beyond what is reasonable to a different form of nuisance. In conjunction with the changes that I see going on in society, I see a need for individuals to be able to have their say and regulate farming activities. I just don't understand really the need for this bill. We'd ask that it be withdrawn and that more effort be put into the planning system, to plan for agricultural practices ahead of time and protect agricultural land from development.

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In this submission, there are a number of specific wording comments. There's just one I really would like to point out: subsection 2(3). This is on page 6 of the submission.

Historically, under the Farm Practices Protection Act, farmers were protected from nuisance if they did not violate any environmental statutes, but if they did violate those statutes, then they were open to a nuisance claim. That has been reworded slightly so now there has to be a charge pending before someone is open to a nuisance claim. That's a very important difference. This means you have to get the Ministry of Environment, or another department, or even lay your own charge before you can bring a nuisance claim. That's very onerous. Historically, under a nuisance claim all you had to do was demonstrate that the farmer was violating an act and then you could go on with your claim. You could do that all at once; it wasn't two processes. I would strongly suggest that be returned to its original version, which was violating the act, not charge pending.

Thank you for your time.

The Chair: Thank you very much. We have five minutes for questioning from each caucus. We'll begin with the Liberal caucus.

Mr Hoy: Thank you very much for your presentation. I'm just looking at the wording under subsection (3) again. I can see that you're going to be a very good lawyer at some time. You make a compelling case here. However, I'm not in total agreement at all that the bill should be withdrawn.

I see this bill required for a number of reasons. We have a changing agricultural world that may need more definition and some guidance towards those who are looking at agriculture. The municipalities in Ontario, I'm led to believe, are quite interested in seeking some guidance from the government of the day in regard to agriculture.

The world has not yet, in Ontario at least, developed a situation where agriculture will take place here and all other things will take place elsewhere. We have quite a mix of planning that has gone on, some of it perhaps not all that thoughtful, so we're left with this dilemma of urban and rural neighbours being close. We have industry on one side of the road. I can think of one in my riding where we have a new ethanol industry and right across the road they're farming. It's a very diverse situation in the agricultural field and I think the participants, including yourself — even though you're opposed to the bill, there are others who seek the guidance from it.

The other point I would like to make is that agriculture is in a minority situation. Their population is only about 2% of all persons. In the municipality where I live 92% of the land is used for agriculture, yet there's probably the same amount of people, 2%, involved in the industry. Governance is changing and people have concerns that agriculture doesn't have the time, those people involved don't have the time, to focus in on local councils or even higher endeavours than that.

I would suggest to you that there's a need for this bill. As an opposition member I say quite freely that we need something in place to give guidance to those persons and individuals in Ontario — urban, rural, farm, non-farm — to help us deal with what is normal and what is not, because agriculture has changed, and is changing rapidly. Some people are challenging the idea that large farms are not normal, for instance. I think we need someone and some mechanism to make the judgement as to whether it is normal or not just on that one example.

Mr McCulloch: I guess I have two quick comments. If I thought this bill was simply codifying the historical nuisance as it has existed in the past and just giving it more definition, then we would not be opposed to it. I think it goes beyond the historical nuisance that has developed over 200 years of case law. That was my discussion about the difference between reasonable use versus normal.

I've just lost the second comment. If it comes back to me, I'll mention it.

The Chair: You have about a minute to wrap up.

Mr Hoy: I agree with you that the Ministry of Environment may not be able to provide the enforcement that you require from time to time. I know of a case in my area where the farm practices people deemed this gentlemen was not involved in a normal farm practice, but then there was no enforcement after that.

I would agree with you that we'll have to be vigilant with the government to make sure there is enforcement at any time, whether this bill exists or does not exist. I agree with you that the Ministry of Environment has suffered greatly in terms of staffing in the last few years. I mentioned this morning that a piece of legislation without enforcement is not of much use to anyone. On that we agree.

Mr McCulloch: All right.

The Chair: We'll move to the government caucus.

Mrs Munro: I wonder if you could explain to us, in opposing this bill it seems to me that one of the underlying principles you have identified is the need to protect agricultural land. Is that correct?

Mr McCulloch: I see that as a purpose of this bill. It says that in the first paragraph. We believe there's a two-step process being used by the government here: to give power to the municipalities through planning, and you're now giving powers to farmers to oppose the municipality. You're setting up a conflict. Why not just set up a provincial policy statement that protects agricultural lands? We have a policy statement but it's not as binding as it used to be.

Mrs Munro: I'd like to also ask you about the notion of reasonableness that you have outlined on page 3. In the bill we also talk about acceptable farm practices. What is unreasonable about "acceptable"?

Mr McCulloch: "Reasonable" is the word that has always been used in law. At some point this act is probably going to be appealed to a judge and that's when it will finally get its definition. A judge is going to look at it and say: "Why was the word 'reasonable' not used?"

Why did another word get chosen?" There's a presumption in interpreting statute that if another word is used, it must mean something different. "What is the difference?" and "Acceptable to whom?" would be the questions that would start going through a judge's mind.

We don't see a need to differentiate from the historical definition of "reasonable" because the courts are very comfortable with figuring out what's reasonable and have never ruled against the farmers in the past by saying, "Manure smells are unreasonable." That has always been considered reasonable in a farming community. What would be considered unreasonable, as far as we're concerned, are things that pollute. From what I've heard from the submissions, no one really wants a bill that promotes polluting, but we're afraid that through the back door that's what's going to happen through different types of interpretations because the term "reasonable" hasn't been used.

Mrs Munro: And you don't think that's acceptable?

Mr McCulloch: It just worries me as to why a different word, you know.

Mr O'Toole: Thank you very much for your interesting position on this particular bill. As you know, if you've been watching the presentations or participated, Mr Hoy and Mr Cleary, and indeed I could say almost all of the participants, have been very broadly supportive of this legislation, each bringing forward his own unique concerns.

It's interesting when I look back at CELA's position that even in 1988, they were opposed to the legislation at that time. That's their position. I'm wondering what would motivate them to not listen to the farmers, to the actual people, and the willingness to move all litigation into the courts, which are somewhat paralysed today, perhaps because of the litigants, perhaps because of others.

I just want to make a couple of points. Did I hear you correctly when you said you were opposed to the formation of large assemblies of land for the purpose of agriculture?

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Mr McCulloch: Opposed? No, we're strongly supportive of land use reform agriculture policies that protect prime agricultural land.

Mr O'Toole: Yes, agricultural land. You don't have a problem with the fact that with the intensification and specialization that might be required for cash-cropping, they actually work 1,500 acres today. That wouldn't be unusual, would it? Would you be opposed to this land assembly?

Mr McCulloch: Oh, increasing the size of operations?

Mr O'Toole: Yes, for being competitive globally. That's what's going on. You have to have a large assembly of an operation to drive unit costs down. To buy a \$200,000 tractor, you've got to have a fair amount of land that you're working to make it efficient, like the Midwest competition for grain crops etc.

Mr McCulloch: If it's done properly, no, we'd have no opposition.

Mr O'Toole: That's good. The other thing too I was wondering, did I understand? We're talking about the importance after the consultation of the current noise, odour and dust which nuisance bylaws, municipal bylaws kind of address. I gather — I don't want to misrepresent — we've added light, vibration, smoke and flies, I think. When we added that, that was addressing the current realities in the businessplace.

This was brought to us. It isn't some invention of the government; it's to respond to the realities of the workplace. Do you think it's wrong for the government to respond, to try and clarify for the participants? Do I hear CELA saying that their view is better than listening to the people? That's the way I hear it. Should we be listening to you? What is your recommendation as opposed to what Mr Hoy and others have supported as responsive, balanced legislation?

Mr McCulloch: I don't see the need for the legislation because I haven't seen a demonstrated problem. There's a difference between fears and a demonstrated problem. If the agricultural community has had fears, that's one thing; if they've had a problem, that's another. I haven't seen evidence of a problem.

The Chair: Time's up. Thank you very much, Mr McCulloch, for coming before us this afternoon with your views. We appreciate it.

ONTARIO RATITE ASSOCIATION

The Chair: I'd like to now call upon Sharon Heutinck from the Ontario Ratite Association. Good afternoon. Welcome.

Mrs Sharon Heutinck: Good afternoon. First of all, I must say that I consider it an honour and a privilege to be here today. It also reminds me that I'm very grateful to be a Canadian.

As other people who have been here today stated, I feel Bill 146 is an excellent piece of legislative material, which addresses a good many issues. But one issue that has not been addressed, because I'm sure it isn't an issue that would have been thought about, has the potential to negatively impact the operations of many, many farmers across this province. As you know, farmers are being encouraged to diversify, but without some built-in safeguards in this new act these farmers may find themselves being told, "Sorry, you can't."

If I can expand upon "diversify" for a moment, diversification can mean a new venture on an existing farm. Right now, one of the new things is ginseng, which has been going on in our area for about eight years. They're now making hemp materials for fabrics, which is new. My personal experience is with emus; ratites are relatively new. That's a new venture on an existing farm.

The other way of diversifying is to re-establish a farm operation on your property which you may have discontinued and now you wish to return to that. An example might be range-fed, drug-free chickens, which are very popular and sold at local markets. Returning to sheep for homespun wool is another example of

diversifying, returning to an area of agriculture that once existed and now you wish to diversify and go back into that.

My purpose here today is to introduce to you the possibility of a friendly amendment to this bill. The following will illustrate an example that is personal to me and my family but is not unique in this province. We own a small farm in Brant county, which has been cash-cropped for three generations. It is zoned agriculture 1, by the way; the barn has been in existence since the 1800s. Under the township's own bylaw, the permitted uses include "agriculture uses, including all livestock uses." That's the bylaw in our area for agriculture zone 1, which is what we are in.

The recent bylaw in Oakland township was passed in 1985. We decided to diversify, continue cash-cropping but diversify and introduce emus into our barn. The barn is in excellent condition, has always been well maintained. We were told by the planner, and I quote, "Sorry, you have lost the right to house livestock in your barn." Reviewing, we're agriculture 1 on a farm, the farm is being cash-cropped. Because we did not have livestock in our barn at the passing of the bylaw in 1985, those new bylaws rendered our barn non-conforming because it no longer met the side lot and setback requirements of the new bylaw.

We were just devastated. We couldn't understand. How can this be? You're zoned agriculture, you've cropped your land, you have a barn, it has had agriculture, but because it didn't have it then, you are non-conforming. We are OMAFRA-conforming. I have the figures here for OMAFRA. We meet OMAFRA MDS. Emus are five-animal units to one cow. Under the OMAFRA guidelines, with our particular barn in our particular area, from the distance to the nearest house, OMAFRA allows us to have up to 50 emus or 30 ostriches. The township cast that aside; the barn is non-conforming. Absurd? Absolutely. True? Every word.

Urban sprawl: Those of you who may know Dr Gord Surgeoner at the University of Guelph, he has predicted that 40,000 families will go to rural Ontario over the next year or two. Local bylaws are going to be changed. You heard the lady solicitor from Oakville talking about non-conforming and Oakville sprawling and all this stuff. Keep focused, please, that I'm talking agricultural 1 in my scenario.

Changing of bylaws: It's safe to say, I suspect, that now many of the original barns in the 1800s, which ours was, that are built in Ontario no longer will meet the new side lot or setback requirements. It doesn't matter whether it's a 100-acre farm or a five-acre farm. I can go out for a drive within five miles of my farm and count 20 barns that, if you apply the same setback laws, don't conform.

The pig industry is a prime example right now. Pig prices, as you well know, have plummeted severely. Farmers have to diversify because they can't pay their bills. So let's say they clear out their barns and they go into cash-cropping. Maybe they go to ginseng, which will take up to five years to get a crop. Maybe they plant

soybeans for a few years. Then they wish to go back — maybe they don't want to get back into pigs; maybe they want to get into beef cows, dairy cows, sheep, goats, anything. They may be told, "You have lost the right to house livestock because your barn is non-conforming."

1430

I'd like to read you some of the bylaws. We had a letter sent to a few municipalities in southwestern Ontario. I chose southwestern Ontario because it's prime ag land. We asked a question: "If a barn was on an agricultural property, a working farm, but didn't have livestock in it at the time, were there any issues?" To summarize it, I'm going to read you six replies, four of which you would have problems with. Only two said, "A barn is a barn is a barn."

Haldimand-Norfolk states, "However, if the property has a barn on it which has not been used for the housing of livestock for several years the appropriate zoning bylaw will have to be reviewed." We spoke to one of the bylaw officers because we looked at a piece of property in Haldimand-Norfolk, agriculture zone 1 area; the whole area was but there were a few houses located in and around that area. The bylaw officer told my husband and me, "Go around and talk to the neighbours, and if the neighbours don't object, you can probably put your emus in that barn." The farm we looked at had been cash-cropped I don't know how many years, but it had had animals in it. It did not have animals in it at the time because when the gentleman was in his eighties he had died and the widow was selling it some five or six years later.

The next one that responded to us was Oakland township, which is our own township, and even they still say, "The ability for a current or previous owner to show whether it has been a permanent or temporary cessation is critical in determining whether this is non-conforming." Well, folks, that was us, and they said we were non-conforming and we had lost the right.

London: "To answer your second question, if a farm is legal non-conforming, a minor variance will be required to change the use of the buildings or land from a legal non-conforming" — so it doesn't meet the setback — "to another legal non-conforming." In other words, the introduction of livestock suddenly in an ag zone is now considered non-conforming by this, because if your barn doesn't meet the setback, it's non-conforming, so they say. To introduce livestock into that empty barn is a non-conforming use. Well, I can't yet figure out how livestock can be anything other than a permitted use in a barn. What was a barn built for? Livestock on the bottom, the hay and the straw and the grain on the top floor. That's London.

Brantford township: "As a matter of practice we require compliance with MDS for livestock operation." I phoned this man and I said, "Do you have anything in your books that states if the barn is empty and it's a farm and you're still cash-cropping but the barn is empty" — He said to me, and he started to laugh, "Oh, you're non-conforming; forget it." I said, "Have you got it in

writing?" and he said: "No, no, no. We don't put things like that in writing but it's a common planning practice."

The last one, the best one of all, which is the only one that truly supports, is from the township of Onondaga. It states what I feel is the correct interpretation: "The only zone in our bylaw which permits animal operations is agricultural 1 zone." No problem. "If the property is under the A-1 zone, it can be used for animal operations even if it does not meet the minimum setbacks in the existing building." That, ladies and gentlemen, is what they all would say, but they don't.

The amendment I would like to introduce is on page 6 of the proposed act, under subsection 6(1). Interesting that the lady from Oakville referred to this exact same section. It currently states, "No municipal bylaw applies to restrict a normal farm practice carried on as part of an agricultural operation." Fine. What I would like you to very seriously consider is adding this clause: "or to restrict the use of agricultural land, building or structures used in a manner consistent with carrying on agricultural operations and in accordance with OMAFRA guidelines." We must have the guidelines because it's OMAFRA that said, "All right, you can have so many animal units in the barn."

The introduction of this friendly amendment is in every way intended to be consistent with the spirit and the intent of this very important legislative bill. It is vital to ensure the continuation of agricultural operations in this province that barriers not be put in place that would prevent diversification or the return to the previous use of the lands and barns.

My final word on this is that we have battled with the courts for four years. We have spent almost \$50,000. We lost. The reason we lost, with all due respect to the judges, is that the judges are city oriented. As soon as they hear the word "non-conforming" it sets up a red flag. Then they hear "non-conforming use," which is reintroducing livestock, and that's where they sided: "No."

We were told at the time there was no case law. Well, now, gentlemen and ladies, there is case law. We, unfortunately, are the source of the case law. Our farm situation deeming our barn in an agricultural zone to be non-conforming, therefore livestock would be non-conforming, sets a horrendous precedent for other farmers in this province who want to diversify. Sadly, it sets a precedent to be used in that regard. It is not up to the township to prove you are non-conforming. It is up to the farmer to prove you are permitted.

I would hope that I would receive all-party support on this amendment. I don't want any stalling to stop this bill from going through and hope that in retaining all-party support we can go ahead with the final reading of this very, very excellent bill. Thank you.

The Chair: Thank you very much. We have two minutes per caucus for questions, beginning with the government caucus.

Mr Danford: Thank you very much for your presentation. I think we've all listened intently to the circumstances you found yourself in. Certainly a number of comments were made in our consultation to try and not

have a situation like this occur in a general sense. When the first part of section 6 was put in place it was this question that it was actually intended to deal with, the circumstances you find yourself in, that category. It very straightforwardly says exactly that. It also is intended to have some generality because it is impossible in law or in any other circumstances to clearly define every minute point in black and white; therefore, you can leave something out that was not intended when you try to go to that extreme.

In putting this together in this form, it was to leave some flexibility for that group that was entirely familiar with dealing with the issues that would come before them, not in a court of law but in different circumstances, where there would be particular expertise in this form. The fact is that in our last section it does apply to all the bylaws that were in force, to new bylaws and to those in force. It covers the whole gamut. You have a concern that it doesn't go far enough, as I understand by your amendment.

Mrs Heutink: The concern is basically the use of the barn.

Mr Danford: So for that reason you think buildings should be included to be more specific. Okay. I understand where you are coming from but I hope — I don't mean to debate it — you can see our point in the original draft of the bill that we brought forth. It was to cover everything and not for any reason to leave anything out either, and leave it in that form. We were of the opinion that it would cover even your instance.

If this legislation had been in place with the present wording, would you agree that you would be in a better position to have a board provide a decision that would have given you a different authority or a better position to contest?

1440

Mrs Heutink: I guess it comes down to the fact that it is not up to the township to prove the barn is not non-conforming. It's up to me, the farmer, to prove it's permitted. The fact that it doesn't really specifically address these barns that are used for livestock is vital. When I've talked to people in the farming community, they've all looked at me like this has to be the only issue in Ontario that could ever have happened. I just read you off four other bylaws in townships to point out very clearly that it is not an isolated case. In our situation we decided to fight this because we felt so strongly. You're in an ag area. We spent a great deal of money, and a lot of people were very fortunate that we were able to do that. It's not going to help us; we're done. It's for other people who want to go back into using their barn, to diversify. These people are at the mercy of various municipal bylaws now, because if that barn no longer meets the setback, you're non-conforming, and that's all people in authority need to hear: non-conforming.

That's exactly what the young lady, the Oakville solicitor, was saying. If they rezone a farm area, that barn is non-conforming. As long as you keep livestock in that barn, fine. You may have a 200-acre farm that you're

operating. If your area has been rezoned to residential, all right. But this is not the case here. We are an agriculture 1 zone, and they still are able to say that because you don't meet the setback, you are non-conforming.

With all respect, take a drive into the country this weekend. Just drive around and see how many barns are located 500 feet from the nearest house or 300 feet from the nearest setback, side lot. There are all kinds of them out there, and this is what is going to happen.

If you don't want to use the whole clause, fine, but please do something to get the use of the barns in there. That's vital. I cannot impress it upon you enough.

I think the bill is wonderful. This is absurd, what I'm sitting here telling you, and I know it is absurd, but it is the truth.

Mr Cleary: I think you made an excellent presentation. I know, as a former reeve, that we went through that on many occasions in our part of Ontario to try to get the best possible plan in place for rural Ontario, and particularly our part. The members on the other side talked a little bit and answered your questions, and I'm sure there's a way around that.

I'm just not sure what you mean about one thing. The setback, is that setback from a plan of subdivision?

Mrs Heutink: Every township varies. That's the interesting part. In our township you have to be 1,000 feet from the nearest house, which we aren't, and you have to be 300 feet from the side lot of your property edge. If this is my property here, my barn has to be at least 300 feet from the edge of my property and 1,000 feet from the nearest house. Our barn is not, simply because of development through the years. The barn has never changed its position; it's there and has been for 150 years.

But you will find, as I say, that with roads and urban sprawl these barns aren't meeting these setback requirements.

Mr Cleary: Do they ever vary, from what you told me there. I've been a strong believer that in Ontario, with the changing times, with what we grow, we have to diversify. We have to add value to what we produce. That's going to create the jobs. I don't want to harp on this for a long time, but I feel very strongly that there must be a way to get around this.

I didn't know of those incidents till you brought them before the committee. I did know of previous incidents back in the 1980s, but I didn't know of your particular incidents or others. I wish you well on it. Hopefully there's a way to get around it.

The Chair: On behalf of the members of the committee today, I thank you for bringing your presentation before us. It's an interesting problem and we'll have to work on it.

ASSOCIATION OF MUNICIPALITIES OF ONTARIO

The Chair: I'd like to now call upon representatives of the Association of Municipalities of Ontario. Welcome. Please make yourselves comfortable.

Mr Roger Anderson: Ladies and gentlemen, members of the committee, I would like to thank you on behalf of the Association of Municipalities for the opportunity of appearing before you to present the issues related to the proposed Bill 146, the Farming and Food Production Protection Act.

My name is Roger Anderson. I am first vice-president of the Association of Municipalities of Ontario. I am also the chairman of the region of Durham. With me today is Dan Vanlondersele. Dan is well known to most of us, but we never call him by his last name. He is a councillor of the township of Delhi in the region of Haldimand-Norfolk, and is also chair of the association's rural section.

Mr Dan Vanlondersele: Harry could probably pronounce that better.

Mr Anderson: In general, AMO supports the government's actions and programs that strengthen the economic competitiveness of Ontario, including the competitiveness of farmers and food producers. We support in principle the bill's intent to assure farmers of the right to conduct normal farming operations in order to foster economic growth and food production in rural Ontario without being subjected to vexatious and frivolous nuisance complaints.

However, it is regrettable that in trying to achieve this objective, the bill disturbs the delicate balance between the farmers' right to farm and the need to protect other community interests. Municipal councils are elected to represent their constituents; they are not appointed. Municipal councils are responsible for and are held accountable for policy decisions that balance the interests of the individual with those of the entire community. Unlike appointed special purpose bodies, municipal decision-making is an open and accessible process. Any action that infringes municipal authority and accountability would be counterproductive.

Given the inclusive, consultative and accountable nature of local government in Ontario and the course of action and the level of protection farmers enjoy under the existing act, we are not clear about the proposed bill's rationale for rendering municipal bylaws inoperative and expanding the mandate of the Normal Farm Practices Protection Board.

In 1988 the Farm Practices Protection Act was proclaimed to protect farmers from nuisance lawsuits related to noise, odour or dust resulting from normal farming practices. The legislation empowered the minister to appoint a farm practices board to adjudicate complaints. This is considered a reasonable authority for the board.

The right-to-farm consultation paper released in December 1996 stated that the review of the Farm Practices Protection Act must address the "need to balance the increased authority the municipalities will have with farmers' need for right-to-farm legislation."

In October, the AMO rural section executive met with Agriculture Minister Villeneuve and raised a number of issues and concerns; specifically, that there are measures included in this proposed act that will impede municipal authority and create confusion.

AMO has previously stated that they support in principle the bill's intent to assure farmers the right to conduct normal farming operations in support of economic growth and food production in Ontario. Farmers, like other businesses, should not be subjected to vexatious or frivolous nuisance complaints. However, the bill strengthens farmers' rights to farm by impeding the fundamental rights and responsibilities of elected municipal councils to pass and enforce bylaws.

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In order to address this impediment, AMO is commending a number of amendments to the bill. The following are AMO's principle issues, comments and commendations.

Bill 146 undermines the authority of municipalities to regulate farm operations through zoning and other bylaws mandated by existing provincial legislation.

The current Farm Practices Protection Act, in clause 1(a), recognizes a farmer's right to carry on normal farming practices as long as the farmer complies with any land use control law" — for example, the Planning Act. Bill 146 deletes this section and introduces a provision, subsection 6(1), that states, "No municipal law applies to restrict a normal farm practice carried on as part of an agricultural operation."

Therefore, Bill 146 removes the requirement to meet a zoning bylaw's general provisions, specific standards and definitions. In rural Ontario zoning bylaws contain such provincially mandated regulations and standards as the minimum distance separation formulas regulating the distance between livestock facilities, homes and rural based industries. Such regulatory measures are intended to deal with health and safety matters as well as the enjoyment of property privileges. All property owners and tenants, whether farmers or rural residents, should enjoy a level of assuredness when it comes to municipal standards and their status.

AMO expects that the standards related to ground and surface water protection are issues which may have adversely impacted some individual farmers and have been the cause for recent conflict and concern from the farmer sector. However, from our standpoint it is not appropriate that the Farm Practices Protection Board should have an unlimited and unfettered authority to neutralize land use documents and municipal government decision-making. The effect of this act is to bestow exceptional powers on the Farm Practices Protection Board, another special purpose, quasi-judicial tribunal. Municipalities believe there are too many special purpose bodies in Ontario and have worked with the province to eliminate them or at least clarify their roles and their responsibilities.

Instead of empowering another unaccountable special purpose body through Bill 146, we believe the solution to farmers' concerns involves a fuller discussion and dissemination of information on how farming practices can be better reflected in municipal bylaws without compromising Ontario's land use planning process, environ-

mental protection, and broader community interests and rights.

There is also a danger that the general term "normal farming practices" could change in meaning over time. AMO is concerned that Bill 146 and the lack of a precise definition of normal farm practices may create a move to bypass or replace municipal land use planning and its local processes.

The Planning Act, introduced 50 years ago, has gone through several substantive revisions to make Ontario's planning system more efficient, timely, less costly, and with greater transparency and accountability. It benefited from the input of many stakeholders, including farmers, other business groups and ratepayers, developers, and municipal constituencies. By removing references to existing land use controls in Bill 146, confusion and uncertainty for the public will be created when municipal bylaws are overturned by the Farm Practices Protection Board.

Therefore, rather than rendering municipal bylaws inoperative, AMO believes that OMAFRA can and must work with municipalities, planning consultants and the farm community to have better agricultural input prior to the drafting of municipal bylaws that would impact on agricultural practices. Given that many farmers also sit on rural municipal councils, this is an achievable objective, if it is not already being practised.

Therefore, AMO recommends that subsection 6(1) be deleted and section 2(1)(3) be amended to insert the phrase "any land use control law," as it is included in the current act.

The association is concerned that Bill 146 is adding another layer of appeals at a time when the province and municipalities are streamlining and removing duplication in their operations. For example, there is now only one level of appeal for property assessment, rather than two. In cases of conflict arising between normal practices and the municipal regulations, the bill proposes that the Normal Farm Practices Protection Board conduct hearings. As such, this board provides another avenue of appeal should the Ontario Municipal Board not provide a favourable decision on a comprehensive zoning bylaw or an amendment. This multiple access and duplication could prove costly and will certainly create public confusion and undermine the authority of councils and the Ontario Municipal Board.

There is also ministerial intervention. Every year, several hundred complaints are satisfactorily resolved by OMAFRA staff before reaching hearings. AMO believes that farmers have sufficient recourse to appeal unfavourable decisions of municipal councils without having to refer them to the Normal Farm Practices Protection Board.

The Ontario Municipal Board has tremendous experience and expertise in dealing with land use conflicts. If a special tribunal is needed, the matter should be handled by the Ontario Municipal Board. At a minimum, there should be consolidated hearings with both the Ontario Municipal Board and the Normal Farm Practices Protection Board on planning application appeals that deal with farm practices.

AMO recommends that in order to avoid duplication and delays, and to lower costs, the legislation should be amended so that the farmers may directly appeal their complaints regarding municipal zoning bylaws to the Ontario Municipal Board rather than the Normal Farm Practices Protection Board.

At a minimum, the Ontario Municipal Board and the Normal Farm Practices Protection Board should conduct consolidated hearings regarding appeals of municipal decisions.

The bill empowers the minister to appoint at least five members to the Normal Farm Practices Protection Board, but there is no explicit requirement that there be any municipal representation on this board. If the government continues with the proposed Normal Farm Practices Protection Board concept, then in order to ensure the local government perspective is included in the board's deliberations, AMO recommends that at least one member of the board be an elected representative or an appointed official of a rural municipality, and furthermore that this requirement be enshrined in the proposed legislation.

We would recommend that subsection 3(1) be amended so that at least one member of the board be an elected representative or an appointed official of a rural municipality.

Section 9 empowers the minister to issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices, and the Normal Farm Practices Protection Board's decisions under the proposed act must be consistent with these directives, guidelines or policy statements.

Guidelines are intended to be advisory and are issued as best practices tools. However, in practice they have an ambiguous status before quasi-judicial tribunals. Moreover, before they are introduced, they are not subjected to the same level of consultation and scrutiny as legislative and regulatory amendments. If the ministry intends to address some of the above municipal concerns through guidelines, this will not provide rural municipal councils with sufficient assurance that their concerns will be addressed either in the short term or the long term.

Therefore, in order to achieve greater certainty in application, rather than the minister issuing guidelines, AMO believes that the matters proposed to be in the guidelines will have significant effect on all property rights and therefore are important enough to warrant promulgation through regulation. Furthermore, there should be input and advice from rural municipalities in their preparation.

In conclusion, AMO supports the legitimate right of farmers to engage in normal farming practices. Farming is a vital economic activity for the prosperity of rural areas. From that standpoint, AMO supports the intent of this legislation.

However, the Association is gravely concerned that in achieving this objective Bill 146 in effect nullifies the authority of locally elected and accountable municipal councils to pass and enforce bylaws. Municipalities pass these bylaws through an open and accountable process mandated by the province through legislation. Providing

non-elected, special tribunals with the authority to set aside municipal bylaws is unacceptable.

AMO strongly believes that without full local government democratic participation, the province will have great difficulty achieving a key objective of this bill, that is, to balance the needs of the farmers with the environmental and land use concerns of the whole community. Given that many municipal councillors are involved in the agricultural activities, they are capable of meeting the objectives and finding solutions for local problems.

The Chair: Thank you. We have just under three minutes for questioning from each caucus. We'll begin with the Liberal caucus.

1500

Mr Hoy: Good afternoon and thank you very much for your presentation. Under recommendation 3, that subsection 3(1) be amended "so that at least one member of the board be an elected representative or an appointed official of a rural municipality," earlier in your brief you were concerned about certain activities of OMAFRA taking the place of elected officials in rural or even in urban settings. Would it make sense then to delete the "or an appointed official" and just have somebody selected for the board who is an elected representative? I see a contradiction between your argument earlier in the brief and then the amendment.

Mr Vanlondersele: The Rural Ontario Municipal Association met with Minister Villeneuve and the member Mr Danford during our mid-term, and the issue of having some representative to have some empathy with the local municipal councils was raised and heightened. Certainly former Reeve Cleary mentioned that with the last deputation. There's some empathy with the fact that municipal councils have to deal with the rural-urban conflict and the difficulties between neighbours. Now, if the rural association finds an appointed individual, a clerk or a municipal official, who has that same empathy — we wanted the ability to appoint either and requested that flexibility. However, if the members present have difficulty with that suggestion, we're certainly not averse to having that taken out. We wanted to have as much flexibility as possible in our proposal so that you would consider any possible changes we might suggest to you today.

Mr Hoy: I think the suggestion is excellent. Just to give you a comment about what OMAFRA may be doing and how it affects AMO and ROMA as well, you cite that there are elected people at the local level who understand these issues and so on, but we've had rural representation made today where farmers are finding they don't have the time to run for elected office. In some cases where municipalities are restructuring and actually becoming larger municipalities — in my location of Kent we have gone from 23 to one and representation has gone from I believe 128 people to 18 — there's a concern that the rural voice is not what it was. At one time in the rural municipalities perhaps their whole council was made up of farmers. I wouldn't suggest that was always the case, but it could have been.

There are some fine points in your brief today but I do think there is an overriding concern in the rural areas that there was pressure being brought for bylaws that would be strict and in some cases, not that they ever made the difference, would almost eliminate agriculture completely. There are some people who would like to do that and there are people who would like to keep the urban people right where they are as well. I think we have to strike a balance. I appreciate your comments today.

Mr Vanlondersele: Thank you. Certainly the newly formed municipality of Chatham-Kent is foremost on the OMA's mind as an example of what's happening across the province.

The zoning bylaws and official plan amendments have certainly opened public procedures that people have input and comment to, but the difficulty, as explained by the vice-president of AMO, is that if you have a municipal bylaw in place and there is an organization that can overturn that bylaw, there could be some confusion out in the community. It's up to the public process and the elected members to protect their rural members, and that's the OMA's position.

Mr O'Toole: I'll be very quick and share my time with Mr Danford. I just want to say first that I'm mainly interested in addressing your concluding remarks. You say AMO is supportive of the legislation, but the tone of your brief is anything but that. Theoretically, it's quite critical, and that's exactly the opposite of what we've heard.

There have been consultations across the province. Mr Roy here and the opposition party's position are supportive. I don't know where AMO is on this. I'm not sure they're reflecting the real needs of the agricultural community, which Mr Anderson is certainly charged with representing. The area of our municipality rurally exceeds the urban form, and the outcry I hear is that the encroachment on rural class 1 property is a serious issue. This government is trying to address that.

What we heard just before — I'm sure you sat here and listened to Mrs Heutink with respect to an example of a municipal bylaw. That's exactly what the province is trying to avoid. I think it's fair to ask that representation on those decision boards — and they are appointed. The Ontario Municipal Board is an appointed body, unelected. The farm protection board would be the same kind of board, though I think it's more specifically focused. Do you understand what I'm saying?

Mr Vanlondersele: Yes.

Mr O'Toole: Some of the things I'm hearing today aren't consistent with what I thought was AMO's position. I would let Mr Danford, who did participate in those broader consultations, conclude.

Mr Anderson: Madam Chair, if we could respond to the comment first I think that would be fair. Don't get the OMA's position wrong, Mr O'Toole. AMO has been and we are committed to supporting Bill 146, as we've said, but we have some major concerns about parts of the bill. It's not the whole bill, just certain parts. I think we made that very clear through our presentation. I don't want you to get the wrong impression that this is a fight between

AMO and the government. It's not. AMO consistently and continually believes that the only way we resolve concerns is through dialogue, and that's why we're here. We have some major concerns in regard to the powers that be. That's what our concern is and we want you to be aware of it. It's no slight against any government at all; it's just that we have concerns and we want to express them. I think that's why you allow us to come here.

Mr Danford: We recognize that's the purpose of having these meetings such as we're holding today, that we have a continued opportunity to be part of it before third reading is initiated and any amendments are proposed. I think you'll both remember that when the presentation was made to ROMA with all those municipal councillors there — it was an open session for them to question us — there certainly was support that it was a provincial responsibility to deal with this particular aspect, and it would actually be in support of their making decisions because they would have another avenue to go to — this board — to get definitions and so on in order to put together municipal bylaws that would reflect rural use. I say "rural," not necessarily agriculture but a balance between agriculture and rural residents. There was wide support for that, as we have found over the last year of consultation.

Certainly when we talk about the level of decisions, you mentioned in your brief, as I understood it anyway, that you felt it was more appropriate to go to the OMB rather than to have this other level to deal with some of these situations. Did I assume that correctly?

Mr Vanlondersele: Yes.

Mr Danford: There were also positions given to us through the consultation that they felt that this board could provide judgement if it was required and the dispute could not be settled, that they could provide a decision for this type of issue much easier than the OMB. The OMB, as we all know, is municipal councillors. I've had a chance to be involved in that over the years too. Certainly it can be sometimes lengthy, first of all, to get before the board and then deal with it, and there can be a cost. Because of the type of presentation that is sometimes required to the OMB, it can involve a legal expense, having a representative and so on. But at this board it was felt that at any level you could go and make your case and, because of the expertise of the members of the normal farm practices board, they would understand and make a responsible decision.

I guess I'm disputing your comment about which level of board has the best level of responsibility. I would contend that we found a different feeling when we talked to all the people who were involved in the consultation, and that included your municipal representatives. Do you have anything to offer more than you've already stated in your brief just to clarify that?

Mr Vanlondersele: Since our mid-term we received a number of resolutions from various councils, Member Danford, that spoke to the definition of "normal farming practice." As you and I well know, that can change. Without a definition in it there was concern that there

would be a lot of appeals and it might tie up the farm practices board.

The OMB has a history of being a referee for municipal issues, and a respected history. Again, the concern is that we set up another body that might well deal with similar issues. As was stated in the brief, if that's your wish, to carry on with this board, you might think of joint hearings between the OMB and the new board because there is some overlap when you're dealing with OMAFRA regulations, the Planning Act etc.

Mr Danford: Can I just have one more point?

The Chair: All right, just because it's you.

Mr Danford: You mentioned the representation on the farm practices board. We have always, as I understand it — I think I can say always; I can go that far — had a member who represented rural municipalities as a member of that board. I can assure you without any doubt that we will continue that. In fact, if the board is expanded, and there's some possibility that may in the end happen, we would allow it to show that and reflect that change. There is no intention, and I say that without any doubt, that there will not be rural municipal participation on that board, because we see it as providing the balance that's

necessary. I guess that's a statement but I just wanted to clarify that.

Mr Vanlondersele: I want to say as well, thanks to you and Minister Villeneuve for the openness of this legislation and the input we've had. The concerns we raised today were by no means meant to be negative. We're all in elected office here and we have rules and responsibilities that we have to deal with. We just want the road to be somewhat clear and we see a potential pitfall here if something can be overturned from properly orchestrated, open meetings where bylaws are derived from and then a board can overturn them.

Mr Danford: We appreciate your input and we'll take that into consideration.

The Chair: Thank you very much, gentlemen, for taking the time to come before us this afternoon with your brief and your ideas. We appreciate it.

Colleagues, that's our last presentation of the afternoon so we will adjourn, to reconvene tomorrow morning at 11 o'clock. We will be in Belleville. If any of you are contemplating coming along on the bus, we will leave from in front of the Legislature at 8:15 tomorrow morning. We are adjourned.

The committee adjourned at 1514.

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Wednesday 18 February 1998

Mercredi 18 février 1998

The committee met at 1105 in the Royal Canadian Legion, Belleville.

FARMING AND FOOD PRODUCTION
PROTECTION ACT, 1997LOI DE 1997 SUR LA PROTECTION
DE L'AGRICULTURE
ET DE LA PRODUCTION ALIMENTAIRE

Consideration of Bill 146, An Act to protect Farming and Food Production / Projet de loi 146, Loi protégeant l'agriculture et la production alimentaire.

The Chair (Mrs Brenda Elliott): Good morning, everyone. The standing committee on resources development is called to order for the purposes of resuming hearings on Bill 146. On behalf of all the members of the committee, we're very pleased to be here in Belleville, and coming from Toronto this morning, neither rain nor sleet could keep us away from this great spot. We are also very pleased to have Mr Rollins join us this morning.

Mr E.J. Douglas Rollins (Quinte): Thanks, Brenda. I would like to welcome everybody here on behalf of the riding of Quinte. I know that the snow was looking a little bit brown the other day, and we changed it around and got it nice and white for you today, so we cleaned up the act.

Mr Gilles Bisson (Cochrane South): Makes me feel at home.

Mr Rollins: It makes you feel at home. The other thing is it's a lot nicer than coming down last night, because last night the weather was awfully bad about 10 o'clock, but it has certainly improved today even though it is a little bit on the sloppy side.

Welcome to Belleville. It's very pleasant to have you here, and I think once again it shows us that we are getting out into rural Ontario. We welcome you, so thank you very much.

The Chair: I know we're all glad to be here. We had a great day yesterday with a number of very interesting presentations, and we're looking forward to the same today.

HASTINGS COUNTY
FEDERATION OF AGRICULTURE

The Chair: Our first presenters today represent the Hastings County Federation of Agriculture, and I believe

we're welcoming Anne Barber and Bruce DeMille. Good morning and welcome. I'm sure you know you have 20 minutes for presentation time. You can either use all of that for presentation or you can allow time for questioning at the end.

Mrs Anne Barber: I'd like to thank you for this opportunity to appear before the standing committee. I believe everybody has a copy of the presentation.

The Hastings County Federation Of Agriculture is a general farm organization affiliated to the Ontario Federation of Agriculture. We represent almost 700 members, the majority of whom are actively farming in Hastings county. The economic activity of the farming community in the county encompasses 126,000 acres of crop land and produces gross receipts of \$63.5 million. The major part of the farming activity takes place in that portion of the county bordered by the Bay of Quinte on the south and north to Highway 7. This area is in close proximity to the major urban centres of Belleville and Trenton.

Recent amalgamations have resulted in the rural municipalities being joined with urban councils, thus resulting in rural representation becoming minimal or farm representation being absent altogether. Such amalgamations also encourage the trend to extend the boundaries of urban areas into the farming areas, which leads to new housing or large subdivisions being created in close proximity to farming operations. At the same time, farms need to expand and embrace new technology in order to remain viable. This situation could lead to serious conflicts between farmers and their non-farming neighbours.

The Hastings County Federation of Agriculture feels that in passing Bill 146, the provincial government of Ontario would be providing protection to farmers who operate their farms using normal and acceptable practices. This bill will also provide a framework for the mediation of any disputes that may arise.

Modern agriculture is a dynamic industry constantly seeking new crops, new products and using new technology. For this reason, we are supportive of the new act's broader definition of what constitutes a farm enterprise, operation or farming activity. The ability of the Minister of Agriculture to specify crops, species of livestock and other farm-related activities is appropriate as outlined in the act.

Similarly, we are supportive of the expansion of the definition of "disturbance" to include light, smoke, flies and vibrations which may result from the normal use of

modern farm equipment running, in some instances, through the night hours.

We would like to emphasize that we fully support the requirement that farmers must be in compliance with the Environmental Protection Act, the Pesticides Act, the Health Protection and Promotion Act, and the Ontario Water Resources Act.

With reference to section 3 of the act, the Hastings Federation of Agriculture would be pleased to see the makeup of the Farm Practices Protection Board continue under the same regulations as are currently in force.

In light of the decreasing representation of the farm community in municipal councils, the Hastings federation of agriculture feels that the inclusion of sections 6 and 7 is essential to the effectiveness of this bill. The wording in the clauses will prevent municipalities from circumventing Bill 146 by passing restrictive bylaws that pertain to farming activities.

The Hastings federation of agriculture supports section 9 of Bill 146 giving the Minister of Agriculture the right "to issue directives, guidelines or policy statements" relevant to the act provided that these changes enhance the interests of Bill 146 and provide further protection for the right to farm using normal farm practices.

Over the years, Ontario farmers have faced increasing pressure from non-farm neighbours who would like to restrict normal farm practices, even though these may be necessary for food production. The farm community has, for a number of years, been urging the government of Ontario to enhance the protection for farmers. By strengthening the provisions of the Farm Practices Protection Act, the Hastings federation of agriculture is satisfied that the new Farming and Food Production Protection Act, 1997, Bill 146, will provide the protection sought by farmers. Therefore, we would like to recommend the passage of Bill 146.

The Chair: We have five minutes remaining for questioning from each caucus and we'll begin with the NDP.

Mr Bisson: First of all, welcome to this committee and thank you for having made your presentation. I want to say that I don't think there's a member on the committee who disagrees with the content of your presentation. I think we all understand that the farm community overall needs to make sure that it has some level of protection when it comes to nuisance suits, when it comes to practices on the farm.

I guess what happened since 1988 is that when the original legislation was put in place, I think with good intentions, people thought they had pretty well caught everything. I think over the period of time we've noticed that there are certain issues that were not caught in the first legislation and the government is trying to deal with it on a second attempt through this particular one. For that, we in the New Democratic Party are certainly supportive and want to see this legislation passed.

I want to ask you a question, however, on a comment you made at the beginning. It's indirectly related to what you're presenting here. That's the issue that with the amalgamation of municipalities you're seeing less repre-

sentation for farmers on the municipal councils. I'd ask you to comment on that. Is it a very large issue within the farm community? Are we seeing a lot less representation and that sort of precipitates some of the problems we're seeing here?

Mr Bruce DeMille: One of the reasons I feel this has come about is because of the farmers being so busy doing their daily routines and so on. Not that we're trying to take away from the business people or the ordinary people who earn income from sources other than farming, but because of the nature of the business of farming, it does take away from the municipal aspect of serving your community.

Mr Bisson: But the comment was, and maybe I misunderstood and that's why I'm asking the question, that through amalgamation there are fewer councils and what ends up happening is that they become more dominated by urban people versus rural people. I'm wondering, is it becoming a big issue in this area as far as people saying, "Those people really don't understand what our concerns are"?

Mr DeMille: It is really. Versus your urban areas, your rural areas just haven't got the population because your councils are based on population.

Mr Bisson: If you can make one suggestion to this committee to bring back to the Legislature, other than this bill, about how we find a way to make sure that there's proper representation of the rural community on those municipal councils, do you have any kind of recommendation you can make?

Mrs Barber: I would like to see a requirement that municipal councils should consult with the farming community in some form, either by establishment of a standing committee on agricultural issues or by some other means, to make sure that the farming population has a voice before bylaws are passed.

Mr DeMille: One thing the Hastings federation has done is we've created a municipal council liaison committee.

Mr Bisson: That's a good idea.

Mr DeMille: As of last week, we had our first get-together with councils —Belleville, Quinte West, Stirling, Rawdon, Tyendinaga, Hungerford, Huntingdon. We had a luncheon with them last Thursday and we had very good representation.

Mr Bisson: I was interested you raised it, because we have the same problem in northern Ontario with what's happening in regard to the amalgamations up there. I guess the advice I would give you is that as an organization and as a community, you need to get more politically active at the local level to make sure that either you support candidates who are supportive of the agricultural community or, even better still, run yourselves, because there's nobody other than yourselves who would be better at representing your views on community councils. With larger councils, I think you're going to have to become much more politically involved to make sure your particular concerns are met at council.

Mr Harry Danford (Hastings-Peterborough): Thank you both for your presentation this morning. We

appreciate the support in general of the bill that you've shown.

Just to follow a little closer the point that has already been made about the content of the municipal council, that was certainly brought up in our consultation process we went through in putting this bill together. There was some concern about the lack of rural municipal councillors who really understood the rural, because they had oriented from some other area and were not familiar with all the things that happen in rural Ontario. So I recognize your concern.

You realize that the changes in the bill allow now for municipal councils to have a place to go when they are ready to prepare and implement a bylaw. They would have an opportunity now to discuss it with the board or whatever to try and resolve some of those concerns that might arise after the fact of the bylaw. They do it ahead of time. So there have been some changes and that should resolve some of those concerns.

The other thing, I guess more specifically, is you mentioned section 3 and the balance of the board, as far as the members and that sort of thing is concerned, and you were satisfied that it should remain as it is. Would there be a problem if that board was to be expanded as far as the number of members that would be part of that board was concerned, and the fact that in relation to that there may be more participation from rural Ontario municipal members, ie, councillors would form part of that board as well? Would that be a problem? Would you see that as any barrier as far as the results of the board are concerned?

Mrs Barber: I would not see that as a problem, provided that the farm community was well represented, all aspects of the farm community.

Mr Danford: There always has been a feeling and certainly an effort to make sure that it did represent all rural interests. I think the agricultural as well has to recognize that there is rural Ontario and there has to be that balance of the board members. I think that has been displayed and it will continue, perhaps with some expansion of the numbers. That's part of the things that may occur and that's not a problem.

Mr Doug Galt (Northumberland): I'm quite pleased with your comments about the consultation with councils and setting up that kind of a role. I think that's just an excellent suggestion.

We're changing the terminology or the thinking of normal farm practices from the traditional or the past to whatever is current. I don't notice it in your presentation. Are you comfortable with that? Do you like that kind of thinking, that kind of idea?

Mrs Barber: I think the bill has to make provision for changes because farming is changing all the time.

Mr Galt: The change in the bill will be for current practices rather than looking back. We have no idea — well, maybe we have some idea — what's coming in the future and the kind of farming we'll see. If you move down the road 10 years, I'm sure there are going to be non-farm activities that we never dreamt of at this point in time. To be able to address those I see as a very key part

of this bill and was hoping you would feel comfortable with it.

Mr DeMille: I think one of the messages you can take back to the minister is, that's why we would like to see that there's an open-door policy, that he can change directives, he can create guidelines. If we shut that out, then it might be overridden by some of the other ministries and so on. Leaving that door open still I think enhances farming, the agricultural industry.

Mr Galt: You've mentioned consultations. OMAFRA has gone around the province three times now in consultation since the election. One of the trips was for this particular bill and I think that's why it's being accepted so well.

Mr Bisson: You should have tried the same thing with Bill 26.

Mr Galt: We did.

Mr Danford: There is one part that has been changed and there has been some discussion about it. It's the use of "accepted" or "acceptable" practices. I just wondered if you had a comment on that. Of course, if we use the word "accepted," it's what's been in place, but if we use the word "acceptable," which is now included in this new proposal, in this new draft, it allows for changes as they occur. I just wonder if you'd care to comment on that change and how you see it.

Mrs Barber: I think it's undoubtedly true that farmers in the past have used practices which were normal and accepted at the time which would not be acceptable now. I say this is a positive change.

1120

Mr Pat Hoy (Essex-Kent): Good morning. Thank you for your presentation. You've already covered some areas that I wanted to ask about.

I would make a comment about pure rural representation on councils. We heard this yesterday to some degree — lack of time to be able to sit on council for some rural people. Also, in my particular area we've gone to a ward system under amalgamation. There is a concern that rural persons might run for council, but even at that they're up against a village that also may have someone running for council as well and there are many more votes within the village than there are in the outlying areas. That's not to suggest that a rural person couldn't win that type of an election, but there is a concern that there's an impediment, even within a ward system. I just make that comment to you. We're equally concerned about that.

Section 9 has been brought up many times, even prior to the hearings, by farm organizations and others. In the main, people believe that the current minister or any future minister will of course give directives, guidelines or policy statements that are acceptable to the farm community. There are others who feel that this is too broad and maybe a minister at some time, although I wouldn't imagine that he or she would do this, may work to the detriment of agriculture.

Do you think it would improve the bill if it stated that the directives or policy statements were to be made public? There are other acts that the Minister of Agriculture

has introduced where these directives pertaining to something totally different than this particular situation are not made public. Do you think it would enhance the bill if those particular directives and policy statements were made public?

Ms Barber: I think it would probably enhance the perception that farmers have of the bill if they felt that anything that was changed they would know about at the time rather than that things could be changed without being made public and without anyone knowing until it's too late maybe or until the change affected them directly.

Mr Hoy: It stands to reason that if any minister were to make a guideline, one would see that, because you can't work within the bill if you don't see the guidelines. However, on directives, where the minister is speaking to someone else and says, "I would like to see this happen," it might not necessarily be public, so I asked you that question.

I also want to reinforce that Bill 146, as you rightfully say, maintains the compliance with other acts. It's very important that everyone understands, farm and non-farm persons, that this is not intended to be a bill that allows farmers to pollute. I'm glad that you listed those acts here and your understanding, of course, that that will not happen.

The Chair: With that, on behalf of all the members of the committee, may I thank you for taking the time to come before us this morning with your presentation and your ideas about this bill. It's appreciated.

Mr Galt: On a point of order, Madam Chair: I'm a little confused by the previous comment about making public directives. I don't know of any directives or regulations or anything from a minister that would not be public, that would be kept hidden. Can you clarify that for me?

The Chair: Actually, the question that you ask is probably not in order. No, it's not a point of order.

Mr Galt: When can I ask it?

The Chair: That is something that you could put in writing and pass on to the clerk, or perhaps to the minister himself at another time.

Mr Galt: I'm just concerned that some of the public might be confused as to the directives being hidden. I don't know of anything like that that would be hidden by the minister.

The Chair: I understand. Thank you.

Mr Bisson: On a point of order, Madam Chair: Just for your information, when it's an order in council the item is gazetted; a minister's order is not. I think that's what he was referring to.

The Chair: Also not a point of order.

Mr Bisson: No, but I thought it was a good point of information.

ONTARIO DEER AND ELK FARMERS' ASSOCIATION

The Chair: Now I'd like to call upon members of the Ontario Deer and Elk Farmers' Association. Good morn-

ing and welcome. Please introduce yourself for the Hansard record.

Mr Steve Waterworth: Good morning. My name is Steve Waterworth. I'm the president of the Ontario Deer and Elk Farmers' Association. I'd like to take this opportunity to thank this committee for inviting me here this morning. We would like to thank the Ministry of Agriculture, Food and Rural Affairs staff and Minister Villeneuve for bringing this important legislation forward. I would also like to thank my member Harry Danford for his assistance.

I have a very simple request for this committee today, but before I propose the small change our association is looking for, I would like you to know some of the history involved.

The Ontario Deer and Elk Farmers' Association was founded in 1988. The government of the day was encouraging farmers to diversify into other perhaps more profitable forms of livestock in an effort to improve the economic outlook for the family-run farm.

The value of this farm commodity has gone from nothing in 1988 to an estimated \$24 million per year in just 10 years and continues to grow at a rapid rate. This commodity commands returns to the farm ranging from \$3.80 per pound for venison, \$100 a pound for velvet, the harvested soft antler, \$25,000 per one share in a prize elk bull and cows selling at auction for up to \$18,000 apiece. An average elk bull costs \$350 a year to maintain on the farm and produces a renewable yearly velvet crop worth \$2,500. This allows a net profit of \$2,150 per animal per year.

This is a commodity under which you can revitalize a grade B piece of farm property and participate in the bonanza outlined in the previous paragraph.

We have been working very closely with the Ministry of Natural Resources over the past two years on Bill 139, under which it is made abundantly clear that deer and elk farming is the domain of the Ontario Ministry of Agriculture, Food and Rural Affairs and that what happens on an Ontario farm is agriculture and not nature. We worked hard and long to educate MNR that what we have on our farms is livestock, not game or wild animals. The text used in Bill 139 reflects this fact.

I must admit to you now that we were working so hard on educating the Ministry of Natural Resources that we completely ignored educating our own ministry.

The change we are asking you to make in Bill 146 is in the definition section 2(b)(i). We would ask that this line read "(i) livestock, including poultry, ratites, deer and elk." Presently we would have to come under 2(b)(v), which is game animals and birds.

I met with the Ontario Ministry of Agriculture this past Monday, with the assistant deputy minister who assured me that the ministry would have no problem with this change, and you heard this request by the Ontario Federation of Agriculture yesterday.

This may seem to be a small change but it is an extremely important one to our commodity group and we ask for your favourable consideration in this matter.

1130

The Chair: Thank you very much. Five minutes for questioning from each caucus, beginning with the government caucus.

Mr Danford: Thank you very much for your presentation, Steve. Your major concern of course is limited to the one area there. In preparing this draft legislation we had considered a number of things and I guess it was felt in all sincerity that "livestock" did include the issue that you're making.

We have found in the past, and I think all governments will say the same, that sometimes when you try to prepare legislation and you try to have everything so detailed that it includes every aspect of every issue or every part that should be contained, it is difficult to do that and to be assured of that. We felt there was some benefit in leaving some things in a general fashion so as to not eliminate someone or something that was not intended. That would be somewhat the rationale, to share that with you. But in your opinion, you feel that while "livestock" does cover it, you would like it more specific?

Mr Waterworth: Yes.

Mr Danford: Then I'd ask you to comment even further on it if you could.

Mr Waterworth: I'd like to draw to your attention that we're not only concerned with this portion of the bill. We are in total favour of this bill and want it passed whether you include this amendment or not. What I think needs to be made extremely clear, because it has been a point of controversy now for a number of years, is who controls what. The Ministry of Natural Resources is now saying, fine, what is on an Ontario farm is agriculture, and deer and elk are certainly included in that. They have in the past tried to exert certain control over it. They made the language in 139 extremely clear, and I would just ask that the language in this be made extremely clear. There's also some confusion as to how councils are going to interpret: "Is it livestock or is it game, or exactly what is this?"

Mr Danford: I understand your point and I think you can understand where we came from when we prepared this.

Mr Ted Chudleigh (Halton North): Thank you for your presentation, Steve. Subclause (2)(b)(v) refers to "game animals." If we were to include elk and deer in subclause (i), a number of game animals might also have to be included, either now or in the future. If an animal were excluded from that list, it may influence the interpretation in the future because it wasn't specifically named in the act, whereas "game animals" I believe covers elk and deer and also animals that may be there in the future. I'd like your comments on that.

I'd also point out that the Ministry of Natural Resources does recognize the area in which game animals belong on the farm, but we do maintain the responsibility for any released animals or escapes that may influence the wild herds. I'd like your comments on why that would not work under subclause (v).

Mr Waterworth: Under the definition of "game animals" — it's a matter of public perception here. Game

animals are something wild, something that runs through the woods. Livestock is something that is on the farm, raised for food and/or particular products for profit. If you look at the definition of "game animal" in the dictionary, that's what it is. What we're dealing with on our farms are probably 30th to 40th generation farm animals, so it's a far cry from what a wild deer is, and that's the public perception. I guess what we're asking this committee to do for our industry is clear up that public perception by naming us in the livestock section. These are far from game animals.

I would encourage you all, if you have deer or elk farms in your constituencies, to go and visit them, and you'll get a completely different view of what these animals actually are.

Mr John C. Cleary (Cornwall): I'd like to thank you for your presentation. I know you have a lot of support for what you're trying to do in our part of eastern Ontario. I tried to get hold of some of the deer farmers to see if they might come here to back you up this morning, but they're all very busy. They're right in the heart of the ice storm and they haven't got over it yet.

As you said, it's been going on for nine or 10 years and it's about time it was cleared up. Do you see any problems with the Ministry of Natural Resources at the present time, that they're not in agreement with what you're trying to do?

Mr Waterworth: No, we see absolutely no conflict here. As I said in my presentation, we've been working with the ministry for the past two years. We're presently working also with a combined committee which was set up by the ministries of natural resources and agriculture, headed by Frank Miller, and with other members: Ian Barker and John Williamson. Where the Ministry of Natural Resources has some say, and we're fully in compliance with that, is if the animals leave the farm.

Mr Cleary: So you have satisfied some of the other groups that were in opposition to this five, six, seven, eight years ago?

Mr Waterworth: Absolutely, yes.

Mr Hoy: Good morning, and thank you for your presentation. In my mind, I see your business as livestock rather than game, but we can argue that point all day. The point is, you want to be included here, and I don't see any reason why not.

We always would like the government to put forth everything they have in their minds. However, in this case I do tend to agree that making lists can exempt someone inadvertently, and I don't think that's the ministry's intention. It is certainly not our intention on the opposition side either. I wouldn't have any misgivings about having your deer and elk listed here if that's required.

Game animals can also be on the 13th floor of some apartment building, and that's not what you're talking about. I understand why you want to have it be "livestock," because game animals can be in one's home, and that doesn't necessarily have to be the ground floor; it could be anywhere. I understand the difference between, in some cases, game animals versus livestock.

Mr Waterworth: I agree with everything you're saying. No, we're not talking about something you would keep in an apartment building. What we're involved in is a very serious industry that can revitalize a lot of farm land in Ontario. Our association has worked extremely diligently to make sure that practices are up to standard and so on, and I think we'll probably be having some consultations with the government over the next year or so, once Mr Miller hands in his report, to address any further concerns or problems that are either perceived or real.

1140

Mr Bisson: I'm glad to see that the government has all of a sudden found its way to figuring out that it's a good idea in a democracy to do some consultation on a bill. I've got to give you some credit. On this particular bill the government is doing a fairly good job of consulting. My only regret is that you don't take the same approach with a whole bunch of other bills that people have pretty strong feelings about, having to do with everything from hospital restructuring, municipal restructuring, children's services restructuring, and the list goes on.

That said, I hear the argument you're making about specifically spelling out in subsection (2) the deer and the elk. I hear you saying that that's where you want it. But what difference is it to your business? What does it mean within the investment climate if you have it under sub (i) or leave it where it is? Does it make a business difference?

Mr Waterworth: Yes.

Mr Bisson: Can you explain it?

Mr Waterworth: Once there was the controversy during Bill 162 over deer and elk farms, business went into, shall we say, a nosedive. Prices dropped out of the bottom of the livestock market. Nobody wanted to get involved in it because they'd say, "We don't know whether we're going to be able to do this or not."

Mr Bisson: So this legitimizes it?

Mr Waterworth: Yes, this would send an extremely clear message that livestock diversification in this province was alive and well and that people would then be able to say, "Yes, okay, this is something that's recognized."

Mr Bisson: Okay, now I hear it I understand the argument.

Mr Waterworth: If it's left as just "game animals," it's really not what we're after.

Mr Bisson: What's not that you're not a legitimate business, you're very legitimate, but in the eyes of the investment community it's seen as something that's recognized under the law, it's clear, you have protection, there's no ambiguity, municipal councils don't get confused as to whether you are an agricultural business or whatever. That's really what you're trying to get at.

Mr Waterworth: Absolutely.

Mr Bisson: From the legislative standpoint, Mr Chudleigh actually makes a good argument. I guess the government has a decision to make. If you add "deer and elk," the argument of Mr Chudleigh is quite right, because that's what you're doing, and Mr Hoy touched on it after, that by doing that you're taking away from "game animals

and birds" under section 5 part of what would already be under there, which means to say there was an exclusion.

From the legislative standpoint, we have one of two choices. Either we say we're prepared to do that because we can't think of other businesses that would be excluded, or we maybe have to come at this from a different perspective and have a broader definition of what an agricultural business is under the definitions of the bill. Rather than trying to spell out all the various types of agricultural activities that are spelled out under section 2, have a clearer definition when we talk of — and I was looking at it here in the first part of the bill, just to be helpful — but when we get into the first part of the bill under "definitions" we say, "This is the group of farmers, this is the agricultural community we're speaking to," and we don't get into actually spelling out the various ones.

It seems to me we have one of two ways of going. I made that very convoluted; let me make it clear for you. Sometimes you tend to look at these things as much more complicated than they need to be. They have a choice. They either put "deer and elk," they leave it the way it is or you go back under the definition of the bill. If you can't get "deer and elk," would you rather go back into the definition in the bill or leave it the way it is?

Mr Waterworth: Good question. Our preference is obviously that we name it as "deer and elk." I can't see any other way. The comment I had from the assistant deputy minister was: "We put 'ratites' in there. We should have no problem putting 'deer and elk.'"

Mr Bisson: That's interesting.

Mr Waterworth: Ratites traditionally have not been listed under the livestock section and they are a new diversified farming operation. Deer and elk are certainly that, so I would just ask for the same consideration as ratites.

Mr Bisson: Just as you're walking away, how many deer or elk farmers do you have within Ontario? How many are there?

Mr Waterworth: There are approximately 300 farms.

Mr Bisson: Thank you. As you were walking away, that was a very good answer.

The Chair: Thank you very much, Mr Waterworth. Our time has expired, but on behalf of all the members of the committee we thank you for coming this morning.

Colleagues, our next presenter has had to attend a funeral this morning, so he is coming at a different time, at 1 o'clock instead. I am wondering if we have representatives from the Dundas Federation of Agriculture, scheduled to come at 12. Not yet? Is there anyone else, perhaps from the corn producers? No?

Interjection: Someone from the Northumberland Federation of Agriculture just walked in.

The Chair: All right. We'll just wait then.

The committee awaited a witness from 1146 to 1153.

NORTHUMBERLAND FEDERATION OF AGRICULTURE

The Chair: We are very fortunate to have representatives who were actually originally scheduled to be in the

12:40 slot. You have a brief in front of you from representatives of the Northumberland Federation of Agriculture. Gentlemen, we're very pleased that you were able to arrive early and take this slot.

Mr John Boughen: Thank you. I'm John Boughen from the Northumberland Federation of Agriculture. I'm director for Hope township, I'm also first vice-president and I'm chair of the property planning and land use committee, which probably brings me here today to carry out this job.

Mr Alec Glover: Alec Glover from Northumberland county, director of Percy township, here to help support this bill.

Mr Boughen: First, thank you for having an opportunity to be here today. It's certainly something that we're very interested in; certainly myself, as a farmer in Hope township.

This presentation was approved at the Northumberland Federation of Agriculture board meeting on February 5, 1998, at Hope township municipal building.

Northumberland Federation of Agriculture is a farm organization representing 878 farm and associate members in Northumberland county. Our organization is part of the Ontario Federation of Agriculture in the status of a county federation. The Northumberland Federation of Agriculture has an executive board, two Ontario Federation of Agriculture regional directors, township directors from eight rural municipalities in Northumberland county and one township director from Murray township in Quinte west.

Northumberland Federation of Agriculture has representation from Northumberland Cattlemen's Association, Northumberland Agricultural Awareness, Northumberland Holstein Breeders, Northumberland Dairy Producers, Northumberland Pork Producers, Northumberland East and West Women's Institutes, Poultry and Pigeon Association, and Northumberland Soil and Crop Improvement Association.

Northumberland Federation of Agriculture is making this presentation to the standing committee on resources development to support the Farming and Food Production Protection Act, Bill 146. Northumberland Federation of Agriculture feels very strongly that Bill 146 should become law as soon as possible. Northumberland Federation of Agriculture recognizes that if a country loses control of its food supply, it is in dire straits for survival as a country.

Farmers are decreasing in numbers compared to the overall percentage of population in Canada, but at the same time farmers are continuing to supply an adequate production of food for the consumers of Ontario and Canada. In fact, in 1900 each farmer fed approximately 12 people; today, each farmer provides safe, affordable food for more than 120 people.

To illustrate this on a local basis, in Northumberland county from 1981 to 1996 the number of farms has decreased from 1,736 to 1,366. The result is that the remaining farms are growing in number of acres each farm

is operating, and increasing the amount of food produced. Source: Statistics Canada.

Agriculture needs to be protected from nuisance complaints for it to continue to be the second-largest employer in Ontario and to generate an enormous amount of economic activity for the province. For instance, the agrifood sector contributes more than \$21 billion per year to Ontario's GDP, which is almost 8% of the provincial total.

In Northumberland county, agriculture is the county's number one industry. Bill 146 is necessary to accomplish the objective of the Northumberland Federation of Agriculture's land stewardship guidelines. Section 3 emphatically states, "To protect agriculture from harassment and indiscriminate restriction when 'normal farming practices and procedures' are used."

Bill 146 should be made law as soon as possible because rural municipalities are changing in demographics and many people do not have an understanding of modern farming and what constitutes a normal farm practice.

Bill 146 is needed to protect farmers from such situations as happened to New Brunswick hog farmer Terry Sullivan. He bought a 250-acre farm in 1974. In 1980, he built a farrow-to-finish barn in compliance with all municipal and provincial regulations. Later, Mr. Sullivan's non-farm neighbours complained about odours from his operation and successfully sued him for nuisance. The courts ordered Mr Sullivan to pay each neighbour \$1,500 plus costs. The damages totalled \$33,000, which reached \$43,000 with interest. The Supreme Court refused to hear his appeal. In 1990 the barn burned, killing 2,000 pigs. Mr Sullivan's body was found nearby in his truck. Suicide was suspected.

In the process of drawing up Bill 146, there was a great amount of farmer participation. Last winter in Peterborough, Northumberland Federation of Agriculture members and directors participated in a workshop on the proposed Bill 146. A written presentation was made February 6, 1997, to the discussion paper on the Farm Practices Protection Act, January 1997, to the resources and planning branch, Ontario Ministry Agriculture, Food and Rural Affairs.

The reasons farmers and agriculture need protection from nuisance complaints relates to weather conditions and time constraints. Certain tasks enjoy very narrow windows of opportunity for jobs to be completed efficiently and successfully. An example is the harvesting of vegetable crops such as green peas and sweet corn on a 24-hour basis and harvesting field crops such as soybeans, white beans and grain corn, which takes place mainly during daylight hours but often continues into the night in order to complete harvest before unfavourable weather develops and production is halted. Timing is also crucial to such farm operations as catching and trucking chickens at night. Farmers must undertake these jobs after dark in order to make the task easier and more efficient and to minimize stress on the chickens.

Farming as an occupation by nature produces dust and noise. Modern farm practices today involve larger and noisier farm equipment. Planting and harvesting opera-

tions both produce dust and noise; for example, large tillage equipment, tractors, combines and grain-drying equipment.

The perception of farmers compared to the perception of non-farmers about various farm operations is different because the general public is becoming further removed from the farm with each generation. Many people are unfamiliar with the workings of a modern farm and will bring a number of complaints forward which could result in injunctions, virtually stopping the farm operation from continuing on any given day. Urban sprawl and relaxed planning policies are allowing houses and subdivisions to locate closer to sizeable farm operations.

Northumberland Federation of Agriculture supports Bill 146 as written because (1) it allows farmers to make a secure, stable living from agriculture, (2) Bill 146 provides for an orderly procedure to allow legitimate complaint concerns to be brought before the Farm Practices Protection Board, (3) Bill 146 discourages nuisance complaints, (4) injunctions cannot be forced on a farming operation using normal farm practices in order to stop the farmer from carrying on such activities as field crop planting or spraying and (5) municipalities won't be able to arbitrarily enforce bylaws on farm operations which conduct business using normal farm practices.

Today farmers make up less than 3% of Ontario's population. In traditional farming areas, only 15% of the residents are engaged in food production. Many rural municipal councils have become dominated by non-farm representatives. Some councils have passed bylaws to unnecessarily restrict farming activities such as machinery storage and property standards, round bale storage and manure storage.

Northumberland Federation of Agriculture specifically would like to note that our organization fully supports the reference on page 9, subsection 9(1) of Bill 146, "Guidelines, etc":

"The minister may issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices and the board's decisions under this act must be consistent with these directives, guidelines or policy statements."

Northumberland Federation of Agriculture fully supports this section as it is written.

In summary, based on the various reasons outlined in this presentation, Northumberland Federation of Agriculture urges the Legislature of Ontario to pass the Farming and Food Production Protection Act so the farmers of Ontario can continue to supply a safe, high-quality, reasonably priced food product for the consumers of Ontario for many more generations.

The Chair: There are three minutes for each caucus for questioning, and we'll begin with the Liberal caucus.

Mr Hoy: Good morning. Thank you for your presentation. It's good to have examples for those who might not understand the farm as well as others. You give examples of green peas and sweet corn being harvested on a 24-hour basis. Not only that, but in a lot of cases they have to be at the processing plant very quickly as well.

You talked about what I would characterize as a generation gap, and I understand that completely, as there are fewer farmers, fewer sons and daughters going into farming. You're quite right that people are increasingly becoming less aware of how farming is done here in the 1990s.

There was a suggestion made at one time at the early onset of this bill that those people moving into a rural area should be given some type of notice or advice that they are moving into an agricultural area. First of all, do you think it would be a good idea to do that? Secondly, who should be responsible for informing people that they are moving into a rural area? Should it be on a legal document like a land title? I just wondered if you had any opinions about that.

Mr Boughen: Yes, I do. Certainly in our township, Hope township, which is just north of Port Hope, to give you an idea of where we're located, we have a lot of severance going on with houses, non-farm houses, rural residential as they're called. Probably for about six or seven or eight years now, on the severance application, the township issues a notice of conditions, that if further severance is to be created to create a rural-residential house, they are in a farming area. More or less they're made aware that there are farmers around them, that it's not like living in the city. So we do have that procedure in place. I don't believe it can be at this point put on a deed, but it certainly should be, because once that first owner sells that property and the next owner takes over and it's not registered on the deed, there isn't continuance of that knowledge or information.

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Mr Bisson: I am sure you're aware of it, but just for the record, the example you used on the second page of your brief, in regard to Mr Sullivan, that particular issue was caught under the old legislation. I believe odour was covered under the old legislation. You couldn't be sued for a nuisance complaint having to do with odour.

I think we understand what's happening here. The government is trying to expand the bill for things that were forgotten back in 1988 and for practices that have changed. I think it's certainly a step in the right direction.

I have a question in follow-up to Mr Hoy in regard to the whole issue of the declining population, or whatever way you want to put it, in the agricultural community. Do you feel the provincial government or governments — and I don't think it could just be attributed to this one — have not been strong enough in doing what they need to do in order to protect the farm land that currently exists within the inventory of Ontario? Do you think there's far too much urban crawl, far more farm land being turned over to development than we can sustain over a longer term?

Mr Boughen: Yes, I'll agree with that. We've been very active in our township to have a good official plan and to prevent land being consumed with houses. We know that some of this is going to happen, but we'd like to have proper planning so it's directed away from the best agricultural land.

Also, in the Northumberland Federation of Agriculture we've been very active. We have stewardship guidelines, and I can provide a copy of that for anyone who is interested. We address that issue in there.

As far as protecting good land is concerned, most of the good land is right along the lake, as you go up and down through this area, and certainly that's where most of it is in Hope township and Hamilton township. We were active just a little over a year ago in a question about Cobourg's annexation of land to the west of Cobourg, which contains some of the very best land in Ontario, in Canada, in the world. The NFA was active in that. We weren't saying to Cobourg, "You can't expand," but we were suggesting that they direct their expansion to the east-northeast of Cobourg, which is a poorer quality of land in that area, and not to expand to the west of Cobourg. So we've taken a very active role in that.

Personally, it's one of my very great interests, that we certainly are using up a lot of our good land in Ontario. It's gone forever. Some people ask me and I say we do have enough land now, but certainly that's changing. If we have weather problems, that can change very quickly. But I'm thinking into the future, 100 years from now, and that's not just here in Canada; it's happening all over the world.

We have to be very careful and we certainly have to stop urban sprawl. Even down in the United States of America they have various organizations to try, through land trusts, to protect their good farm land. You'd think the United States would have all kinds of land, but they don't. What has happened down there is that once cities have a superhighway coming out into the rural areas over the last 20 or 30 years, the people move out and this land is used up closer to the city as they keep going further and further. So they've gone out into a lot of the good farming land down there. They're probably even further ahead in the United States than we are here in Canada in that respect.

Mr Gary Fox (Prince Edward-Lennox-South Hastings): Thank you for your excellent presentation. I like the example you gave of Mr Sullivan to show what crisis can happen out there. We certainly don't want to see this happening in Ontario, and that's basically the reason we feel these guidelines have to be properly put in place in Bill 146, so we don't have instances like this.

I noted that in your presentation you said Northumberland Federation of Agriculture members and directors participated in the workshop on the proposed Bill 146. The thing I'd like to point out here is that we certainly had these workshops across the province to deal with this bill so the bill would be put together in accordance with the federations of agriculture and those groups that are in conjunction with what the bill is all about. I'd like to point out that it was because of the opposition wanting more consultation with the public on this that we're in this situation today.

The thing is, this hearing today is going to cost up to \$15,000. It's great to see people and meet with you and

hear these presentations, but really it's very unnecessary when you're all supportive at the time.

The Chair: Gentlemen, on behalf of the members of the committee may I thank you for coming before us this morning, for your time to make your presentation to us. It's very much appreciated.

DUNDAS FEDERATION OF AGRICULTURE

The Chair: Would the representatives from the Dundas Federation of Agriculture please come forward. Good afternoon and welcome to the committee.

Ms Corry Martens: Good morning, or maybe it's good afternoon already. My name is Corry Martens and I'm president of the Dundas Federation of Agriculture. This is Andrew Geertsma, who is the director for the Dundas Federation of Agriculture. It's a pleasure for us to be here today and to present to this committee a presentation on the Farming and Food Production Protection Act.

The review of the Farm Practices Protection Act seeks to address the real needs of all stakeholders, including farmers, rural citizens, municipalities and environmental groups; and secondly, to produce legislation that balances all of these needs. DFA wants to register its firm support of farm practices legislation. There are several good reasons to review the legislation, and we will focus on three of them in this presentation.

First, agriculture is changing rapidly. New technology has brought precision farming and no-till or minimum-till growing practices. Planting decisions take into consideration long-range weather patterns. Global liberalized trade forces farmers to become ever more efficient.

Second, changing population demographics are creating communities that don't always understand farming. The pressure on farm land will increase. So will the pressure on forests and aquifers. These are priceless resources that must be protected for generations to come.

The third reason is the public demands for a clean and safe environment.

Farmers are already responding to these demands. The environmental farm plan was initiated by proactive farm groups. More than 11,000 farmers participated in EFP workshops. The financial commitment of farmers to the EFP is close to \$17 million. This figure indicates that every dollar of EFP incentive funding is matched by \$3.90 of farmers' money, excluding farmers' own labour, for implementation of action items identified in their EFPs.

The Dundas Federation of Agriculture emphasizes that the Farming and Food Production Protection Act will not be a licence to pollute, just as the Farm Practices Protection Act has proven not to be a licence to pollute. Existing legislation protects both farmers as well as the general public.

Under the common law of nuisance, one can be found guilty of creating odours, noises, dust etc that interfere with a neighbour's right to the full enjoyment of their property. Some everyday farm practices create odours, noises, dust etc, and they may annoy the neighbours. Strict adherence to the code of practice or best management

practices will not eliminate these nuisances. However, these nuisances do not threaten life, health or the environment. Rather, they are temporary nuisances that cannot be avoided completely, even when using the most stringent farm management practices.

DFA supports the inclusion of light, vibration, smoke and flies with the current odour, noise and dust.

Another important point in the proposed legislation is the definition of an "agricultural operation." We feel the updated version better reflects the realities of Ontario agriculture today and into the next century.

A "normal farm practice" is not some loosely defined term. Rather, it is a well-understood term found in other statutes such as the Environmental Protection Act.

1220

DFA strongly supports the change in wording from "proper and accepted" to "proper and acceptable." Farm practices that were once accepted may no longer be acceptable.

Section 6 of the Farming and Food Production Protection Act forms the key feature for farmers in this legislation. This section enables farmers to apply for an exemption from a municipal bylaw that unnecessarily restricts a normal farm practice. Eight Canadian provinces and 48 out of 50 American states have some form of legislation protecting farmers employing normal farm practices from nuisance lawsuits.

There seems to be some concern with section 9 of the Farming and Food Production Protection Act. Some people believe section 9 gives too much power to the government in place. DFA does not share this opinion. The power to make regulations is an everyday part of statutes. Few are enacted without regulation-making powers.

Earlier in this presentation we noted how the makeup of the population in Ontario's rural communities is changing. Even in traditional farming areas, only 15% of the residents are engaged in food production. Municipal councils have a dominant representation of non-farming residents. It becomes apparent that proposed bylaws and bylaw amendments restricting agricultural activities may encounter little resistance to become enforceable.

In closing, we want to consider the economic impact of agriculture on the rural community. A vibrant agricultural sector, where farmers can go about doing their work in an environmentally responsible manner, with proper and acceptable work methods, is essential to the economic health of rural communities.

Farm families live in rural communities. They want to be a part of the social and economic environment. They will do all they can to protect their status in the community, while running their farm operation with as much consideration as possible for their neighbours' enjoyment of their property.

The Dundas Federation of Agriculture supports the Farming and Food Production Protection Act because it offers protection and a fair process of recourse against court actions under the common law of nuisance.

The Chair: Thank you very much. There are five minutes for each caucus for questioning. We'll begin with the NDP caucus.

Mr Bisson: I have two points. I guess I'll start in reverse order. You say in your brief: "The power to make regulations is an everyday part of statutes. Few are enacted without regulation-making powers." You're quite right, but I think the concerns, as I've heard them both from people who have contacted me in regard to this bill, and there have been a number — I wouldn't say huge numbers — and the briefs that I've read, part of it is around section 9 but I think really it goes over to section 10, and that's the issue of moving the power to make regulation away from an order in council through cabinet directly to the minister. Normally, what ends up happening is there's an order in council in cabinet and then whatever the regulation is is then gazetted, so that anybody in Ontario who's interested is able to look at the Ontario Gazette and is able to say, "Ah, this is a new regulation." Your association and individuals who are interested are able to go to that.

In regular times I don't think it would be an issue the way it's been put to me, and I don't know how we're able to address that through this bill, and I don't think we can, because you need to give the minister this power. I would not argue against it. There are a number of people who feel this government is doing too many things outside of the Legislature and away from the people. People are concerned there is too much of that going on, so when they see clauses like that, that is what they're speaking to, to make sure for the record that you understand where that's coming from.

I have some concern personally around the minister having the ability to do a lot of the stuff he's doing under section 10. I'd feel more comfortable, even if it was my own minister, to keep it as an order in council, because at least that way you're assured there will be a public process. That's one.

I want to come to the first point and I think it's something that's understated greatly in your brief, and that's the whole issue that the farm community quite frankly are pro-environmentalists. I think if there's any misconception on the part of environmental groups in regard to this bill, it's that sometimes, maybe for no other reason than not understanding a lot about what the farmers do, they don't understand that most farmers, I would say the vast majority of them, are stewards of the land and are environmentalists in their own right. Something needs to be done by the farm community to carry on some of the work that the OFA and other organizations have done to point out that people in the farm community are environmentalists, believe in the land, believe in making sure that land is there in the future for our kids.

When people are concerned around some of the concerns that have been raised by the environmental community, I think maybe it's because we haven't done a good enough job as legislators, and yourselves as the farm community, to point that out. I'm wondering if you can comment on the kind of work your organization has done

to highlight the kind of environmental work you people stand for.

Ms Martens: I think the environmental farm plan campaign has been a very public one and is one that is well recognized in the rural communities and with our neighbours. I have to agree with you that farmers are the first people who actually benefit from the environmental farm plans because they do protect their livelihood. So what can be done is to just keep telling people what we're doing.

Mr Bisson: Through forums like this and others, to make sure. You were going to add?

Mr Andrew Geertsma: Oh, no.

Mr Bisson: You looked as if you were trying to jump in. You looked like I do at a committee level.

Mr Rollins: Thank you for your presentation. Did you people take part in the round table discussions of Bill 146 when it was travelling around the province?

Ms Martens: Not myself, personally.

Mr Geertsma: No.

Ms Martens: Maybe some of our members I might not be aware of.

Mr Rollins: I think one of the things they brought forth was putting into the protection of the act light, vibration, smoke and flies, some things that were put in as a result of those round table meetings that the minister and staff had heard from there. I think it was one of the better points to make sure that this type of presentation is out in the public before the bill is written. It is certainly commendable to the minister and to Harry and all the staff. That's something I just wanted to get on the record. Thanks very much for your presentation.

Mr Danford: If I can respond a little to Mr Rollins's concern, I believe, being part of those consultations, and we had ones in Kemptville and Alfred as well, there was representation, as I recall, from your area, from your county.

A couple of points, certainly a couple of things you referenced here: your comment about legislation that balances all of these needs. That was part of the theme that came from those consultation meetings, that there needed to be a balance, that farmers and agricultural people were trying to live in harmony with rural residents. They recognized there was a value to having them there as well, and certainly that was evident all the way through the consultation. The fact that there will be an effort now to make newcomers to rural communities better aware of what happens in those communities will certainly help that situation considerably, and everyone bought into that process, if I can use that word. Certainly the municipalities, when we dealt with rural municipalities and real estate boards, and all those who were involved at those meetings felt that was something that had to be and that will be part of the process.

I'll just read the other thing you made reference to: "While there is recourse for farmers to appeal Planning Act bylaws to the Ontario Municipal Board, there is no parallel appeal process for the Municipal Act bylaws." I think it has been well received, and it was approved by the

rural municipalities. They felt now, with the implementation of this bill, it will give them an opportunity to look for some decision-making and some guidance to put in place bylaws that will not be a problem and have to be contested at a later date. So there is a strong commitment and you do feel the way this is being presented will recognize that and allow that to happen?

Ms Martens: I certainly hope so. I wasn't aware that this legislation puts in place an appeal process. My understanding is that the legislation will not offer a blanket protection; there will be a case where you can make a case for the one occasion or that the one farm, on Thursday night once every three weeks, needs to have access with a truck to, for instance, their livestock loading business. I think that's the benefit of this legislation, because it does offer this balance. It's not going to have trucks all over the road every night every time somebody turns around. It does offer this balance. It's just practical, common sense, and it makes it easier for us to carry out our livelihood.

1230

Mr Danford: That's right, and I think the fact that this act clarifies and has brought up to date, so to speak, those things that are necessary to be covered, and now the municipalities before they implement a bylaw, if they're considering one, can go and look for direction and use this as a guide and avoid some conflicts instead of implementing a bylaw that they have to go back and have a lot of discussion about with the public and the people it affects, so I think there's quite an improvement there. That was well received and there was no resistance from the municipalities. They felt that would be a real advantage.

I don't know whether we have any time left, Brenda.

The Chair: There's about 30 seconds.

Mr Danford: Do any other members have any particular questions?

Mr Galt: An excellent presentation.

Mr Danford: I agree. We certainly appreciate your taking time to come. I know it's quite a way from Dundas county, and we appreciate this.

Ms Martens: It's not so bad as it was yesterday.

Mr Danford: There you go. Thanks again.

Mr Cleary: I'd like to thank you for your excellent presentation. Some of the things that you have touched on have already been dealt with, so I won't deal with them. I just want to emphasize that farmers do protect their agricultural land.

The other thing I want to say about these Bill 146 hearings is that when the bill was in the House we were asked by the government members if we thought it would be a good idea to have this type of minimal hearings across the province. I agreed with that and my colleagues did too, so I don't see what the big fuss is about this morning right here in eastern Ontario.

Anyway, there's one thing that you didn't mention in your brief that some of the others did. They're worried about the amalgamations that have been brought down by the government. Do you have any concerns about not having local agricultural representatives on the municipal council? In your part of Dundas I don't think you're in

that position, but other areas in the province are. Does that concern you?

Ms Martens: Just looking at our own local area, you're quite right, we don't have that problem yet, but I think everybody who is active on the political scene and active like you people are in the government makes it a habit to look ahead, and when we look ahead, we might be in a position one day that we don't have people who understand farming and normal farm practices on our local council, and that's probably when the problem will start. Today we're looking at this legislation here and we need to look ahead and say, "Is this going to fit for three years or is this going to fit for 30 years?"

I do have a little bit of concern with municipal amalgamations where we have something like Kingston, for instance, which is amalgamated with one township around it. I think there is going to be a lot of water under the bridge before things will go smoothly there, and they particularly need this farm legislation more than maybe Dundas county does.

Mr Hoy: Thank you for being here this morning. In your brief you mention nuisance complaints, and I agree with you on that part, but members of the committee here are also looking at legitimate complaints, and we have to deal with those as well. Most farmers are good stewards of the land and water and air. That's how they make their living, and you pointed out that's how they make their livelihood, but at the same time I think we need a mechanism that works well for legitimate complaints, as few as there may be.

You spent a bit of time talking about the rural situation and rural councils. Do you think it would be a good idea to have in the legislation that a member of the normal farm practices board come from a rural council background, from ROMA? In the makeup of the farm practices board should one of those people be a rural council person?

Ms Martens: I don't think that would hurt. If that was clearly spelled out to me and I could see the connection, then it probably would be a good idea.

Mr Hoy: There are some opinions that it would be good. As well, we have had some remarks made that councils see this board as influencing their bylaw-making decisions, so I think we could have two things come together here. We could have a rural council person and also satisfy those municipal people who see some kind of encroachment into their bylaw-making decision if there was actually one on the board. I appreciate your answer, and we'll wait and see if there's an amendment that's acceptable to the committee in that regard.

The Chair: On behalf of all the members of the committee, I thank you for coming before us this morning with your ideas about this bill. It's appreciated.

ONTARIO CORN PRODUCERS' ASSOCIATION

The Chair: I'd like to now call upon representatives of the Ontario Corn Producers' Association, please. Welcome to the resources development committee.

Mrs Anna Bragg: Good afternoon. My name is Anna Bragg. I live in the greater Toronto area, in the small town of Bowmanville in Durham region, east of Toronto. I am a director representing region 4 of the Ontario Corn Producers' Association and I'm also first vice-president. We represent 21,000 farmers and, of course, other members who get our magazine.

I would like to state right from the beginning that we at OCPA totally support OFA's submission and that we, and I personally, appreciate being here today. I know that there are cost factors to everything, but it's great to have democracy here in this country. Let's hope that we all work a plan out where everyone is the winner and not just a loser-winner. That's very important.

I have read all the briefings and tried to keep up with everything. We appreciate again what you people are doing, because I'm not a lawyer, I'm just me. I'm a farmer and very proud of it.

As you know, the Farm Practices Protection Act, enacted in 1988, was to protect farmers using normal farm practices. We have had challenges on this act in our own farm, which I'll mention in a few moments. OCPA believes that there are good reasons for amending the legislation, since new technology is bringing forth rapid changes in farming and also urban encroachment has forced us to face the issues at hand.

My own farm operations include an 800-acre base, and we own 136 acres. We diversified our own business five years ago and started farm-gate sales, not out of having a bright idea but just out of simple survival. Urban encroachment took over about three farms and custom farming was cut down immensely. Those huge homes were put up, and I guess you might as well join the forces and have a service for them, so now we're very, very fortunate. We have an excellent clientele and we look after the wild birdseed industry in our area. Also now we're starting to, believe it or not, ship to Nova Scotia, and I deal with Manitoba, Saskatchewan, the Dakotas, Minnesota. That's only in the last five years, so there certainly is an opportunity there. Mr Villeneuve is always talking about niche marketing and value added. We've certainly gone that route and it's helping pay our mortgage.

I think we don't need to waste a lot of time here, knowing that there is urban encroachment and they're filling up the acres in Durham. Being that we're under the greater Toronto area, there's an obvious growth, just like everywhere in Ontario. Again, I think we need to work in a balance. I'm not saying that I need all the land I had before, but it sure was nice. Now it's getting very hard to be that efficient farmer cutting down on chemicals, being aware of all the different things. The Braggs have been there since 1843, and I don't think the first Braggs really worried too much about the aquifer, didn't really worry too much about our environment per se, because they weren't knowledgeable. Today, even with technology, in the news media we're made so aware. Right now we know there could be a war going on, and by the time I'm driving home, I'll know what's happening moment to moment. There's good to that and there's bad to that.

1240

Mr Bisson: Pretty depressing.

Mrs Bragg: It is. It's scary, but we have to adjust to it. I think these are awesome times, and I am thrilled to be here.

We have had a few problems that I can reiterate for why we need this act. We spread custom manure. We try not to spread it on a day that someone is getting married. We try not to do it on a Sunday morning. We respect all those different things. They're commonsense things to have respect for your neighbours. But I have to do it when I have to do it. There have been complaints and we were fortunate that behind us stood normal farming practices, so it is very, very important to have this in place. It could have turned vicious.

The only thing that happened — and this is a personal view — is that I lost a little respect for my neighbour who complained. Because I have an excellent rapport with the ag office, I found out inadvertently who it was, and that was very hard for me, because we've been there for absolute years and they built on a severance lot that was supposed to help the parents and they don't do anything other than work in the city. You just keep quiet and try the best you can, but it causes animosity. They don't know I know, but that is hard for me to live with, and when you drive by and they're waving, you know the complaints are there.

We would want to eliminate these problems. This is very honest and open, but it's there. Also we've had problems with red dog.

We're proactive. I am very proud that the corn producers have been so involved with the environmental plans, before it was legislated. We were right in there trying to improve things and show the farmers their weaknesses, and that they weren't going to get their knuckles wrapped but that we could do something proactively to make our role better.

What we did on the farm is we have aspirators and cleaners. It was simple. We put a bag and we catch the red dog. Now we have people coming and we give it away. We do not sell it. They mix it for dog food and they're using it for bedding. You can utilize these things. We don't have one thing now that is thrown away from our cleaners, from the racing pigeon mixes that we do and the birdseed, right from the cobbing that's used for pigeons, to dog food that's made, to a fellow who has deer, because he started a little petting zoo. We sell it for \$3 a bag and it's as heavy as can be — about 110 pounds. I'm really proud of that, that we're utilizing and being proactive.

I'm not an individual; I know for a fact from representing OCPA that we're all inclined to be like this and proud of it. Being stubborn as a farmer personally has come in handy because then you have to think in a very creative manner to be able to, per se, be one step ahead of these complaints so we're not closed down.

You want to eat in a cheap farm policy, in a cheap food policy. We have to be able to work as efficiently as we can. If we have these aggravations and animosities, it isn't going to work.

I personally and I know OCPA is quite willing to blend with the communities and be there and be involved in the millennium that is coming.

Mr Lloyd Crowe: My name is Lloyd Crowe and I'm from Prince Edward county. I think you know where that is. I know Gary's a good neighbour. I'm married with four children. Two are married and I have three grandchildren. I'm involved in a fairly large cash crop operation with two uncles and we also have a pea-harvesting operation in western Ontario. I am regional director for the OCPA in region 3, which is about 800 corn growers who I represent at the regional level, and I'm also the regional director for the soil and crop association for basically the same area.

I'm here for three areas of concern that I have experienced, and also for my support and the OCPA's support towards the OFA submission. I'm not going to go into all that. I've studied it thoroughly and I agree with everything it says.

There are three things about why I support this Bill 146. First of all, Prince Edward county is quite a tourist area and we have run into some problems with a lot of people coming in. There's still a lot of land that we have to farm for a living and we've actually been stopped from planting and harvesting in a couple of situations because of the noise that was keeping the people up. Normally we don't run 24 hours a day, but when you have some springs where it rains for 30 days you sometimes have to adapt accordingly and get the crop in — or if it's harvesting. When you're told by the police to stop, you have to stop. But now I think I could have said, "No, I don't think you can stop me." That's one of the reasons.

Another reason, as Anna was saying, is our dryer. We have a fairly large dryer that also has to run 24 hours a day for maybe a month in the month of November. There are getting to be quite a few houses around, more and more all the time, and it's a concern, because if some kind of municipal complaint stopped us and we had to shut everything down, I would hope that would not be the case because then we'd be in big trouble.

Third, as I mentioned, we harvest peas in the London-Ingersoll area for Cobi Foods. It's just about 4,000 acres now. If any of you here are aware of pea harvesting, it's either ready that day or too old the next. You do not schedule it on an eight-hour day, five days a week. We've run into a little bit of trouble, but most people are very understanding. The machines aren't that bad, but sometimes the lights might shine in the bedroom of somebody's house and then they would get upset. We have to work together on this. We do our very best to be environmentally friendly and do the right thing. I end at that and look forward to any questions.

The Chair: Thank you very much. We have two minutes per caucus. We'll begin with Mr Danford from the government caucus.

Mr Danford: I thank both of you for your presentation. I appreciate your sincerity. I think it's important when we have delegations and presenters come to us and speak without a prepared text. I think it adds so much more to the credibility of their comments.

We talked a little bit about the consultation meetings and the fact that this meeting is here and available for you. I definitely think it's important. Usually I have found that the best advice and direction comes from those who are involved and can reflect and discuss how changes will affect them and impact them. I think that's important and that our consultation process brought that out loud and clear. The fact that you're here today too will support that.

I'll probably address this to Anna. I believe she mentioned something about balance. It is necessary, I think we all understand, to have some sort of balance. We have to deal with what is there in the rural communities. Anna, without going into anything further, do you think that the bill, the way it is now, provides that level of balance and security somewhat to both, that things can be worked out whatever issue comes up? Do you feel that's fair?

Mrs Bragg: The bill right now or the amendment that's coming?

Mr Danford: This proposed bill, Bill 146.

Mrs Bragg: I should commend all the people who were involved with it. I really think you've tried. Even with just changing that one word, I know, I've been on those kinds of committee, and it's the interpretation of the person who's reading it. I feel you've done a good job that way and I'm behind it and so is the OCPA.

Mr Galt: Thank you for your comments and the concern about the wave. There are many kinds of waves for your neighbour that you can give when you know what's going on.

Mrs Bragg: A slow one.

Mr Galt: Some countries limit the spreading of manure to a certain month of the year. That might be of consideration on another occasion. I was wondering about your thoughts there.

The type of nuisance we're talking about in agriculture, yes, if that was ongoing from industry at that level, seven days a week, 24 hours a day, it would be upsetting. But we're talking about very short term. We've worked this board into this rather than trying to define it in law. Are you comfortable with this kind of arrangement rather than trying to define it in law and define it in regulation?

Mrs Bragg: I would say so, because we have a large holding pit, a lagoon pit, and it's been cemented. It's done to all the different specifications. If we have to, because we do custom manure spreading — we're out of hogs now. Since I got so involved in OCPA I have no time to do the vet work. What we're doing is using that and utilizing it. Then I can spread it in the spring when I'm going to be right on the ground within a couple of days; I would say 24 hours. That has helped with that.

Mr Galt: I'm glad to hear you got out of the vet work. You should call a veterinary practitioner in to do it for you.

Mrs Bragg: I'm an RN; I can't say that.

1250

Mr Hoy: Thank you for being here today and providing us with some examples of your experience with the community around you. We had peas mentioned earlier this morning, and if people want tender peas they have to

be harvested within hours, shipped within hours and processed within hours.

Farming's quite different from many other businesses in that timeliness is critical and you can't just turn the switch off and say, "We'll come back and do this tomorrow." It pertains to livestock and through the whole agricultural industry. You just can't, from time to time, shut the switch off and walk away. If you do, you give up your livelihood in a lot of cases. So I appreciate your experiences related to us this morning.

You mentioned your magazine, the OCPA magazine, and it's one that a lot of MPPs read, I'm sure; I know that I do. As a matter of fact, federal members have told me they read it as well.

I understand that on the label, where you mail it to the farmer, the number on that label is when your membership was first acquired. You're number 1, you're number 2. If I remember right, I'm number 156. So I was there way back. I appreciate your comments this morning.

Mr Bisson: I have no questions. I just comment in regard to the work your association has done, as well as others, to try to highlight that the farm community takes environmental issues quite seriously and has for years, way before it ever became in vogue. As we move forward with new technology, so does the farm community and our understanding of what needs to be done. The only thing I would say is to carry on the work because it was nice to hear some of the stuff you've done around your industry that has been quite interesting and proactive here in the area. I encourage you to keep that up.

Mrs Bragg: Thank you.

The Chair: With that, on behalf of all of the members of the committee, may we thank you for coming this morning to make your presentation and to tell us your story with regard to Bill 146. We appreciate it.

PRINCE EDWARD FEDERATION OF AGRICULTURE

The Chair: I'd now like to call on the Prince Edward Federation of Agriculture, Mr Williams. You've just walked in the door, sir. You haven't had a moment to catch your breath. Please make yourself comfortable, get settled. Good afternoon. We're sorry you had a personal matter to attend to this morning, but we're very glad that you were able to come and make your presentation to us.

Mr Bob Williams: First, I'd like to say thank you to the standing committee on resources development for allowing us the opportunity to meet with you and discuss some of our ideas on this very important bill. My name is Bob Williams, representing the Prince Edward Federation of Agriculture.

Before you go any further, if you're trying to read that letter that was handed out, I apologize. It was my first draft of that letter and I didn't get time to correct the errors. As you will see, there are sentence structure problems and so on, but I hope it will give you the meaning of the ideas we had in mind.

On behalf of the Prince Edward Federation of Agriculture, I wish to thank you for the opportunity to appear before you. We feel this is democracy in action for your committee to have a series of meetings to hear comments from the public on this very important piece of legislation.

We feel this legislation is very important for many reasons, but since it's likely that some of the points will be mentioned by several, I would like to emphasize that we feel it is a very important aid in fostering better relations between farm and non-farm people in rural Ontario.

What I was referring to there was that the importance for farmers to be able to do their job and so on will be emphasized by many. What we were doing here was taking a different angle on some of the other aspects of it, but that doesn't mean we don't feel that the major thrust of the bill, to help to allow farmers to do their job efficiently, is not extremely important to us and the main purpose of the bill.

Prince Edward's two main industries are agriculture and tourism. Another area I look at as a growing industry is a significant influx of people retiring in Prince Edward county, and these people come mainly from cities like Toronto and Montreal and places like that.

Because of downsizing and earlier retirement, quite a few of these people are younger than what would have been considered retirees a few years ago. Most of these people bring a great deal of experience and expertise with them and I feel are contributing a lot to our communities. Because there are quite a few of these people and they require goods and services, I consider this a very clean, positive growth industry.

Most of these people have not lived in the country before, so are not fully aware of the disadvantages as well as the advantages of country living.

I feel the Farming and Food Production Protection Act can be a real asset to helping with good relations between farmers and non-farmers.

First of all, I feel that part of the positive potential that can come from this bill is a public education and public relations program to make buyers and potential buyers aware of the activities that happen in rural areas and how they are necessary for food production.

I would even like to see a program explaining this with information that real estate agents must give to people considering buying property that is close to land zoned for agriculture. There could even be a couple of statements on the real estate form to be made out for the transaction so that potential buyers have acknowledged that they are aware of the fact that they would be near farmland and that there could be farming activities that could present odours, dust etc, and that there is legislation that protects the farmer if he is following normal farm practices and being responsible. It would be much better for the real estate agent to lose the odd sale than to have an unhappy customer later on.

I might mention, and it may come out in questions and so on, I've talked to a real estate agent about this and he pointed out several cases in which this has been done. I think there's a case close to Gary Fox that Gary's quite

aware of, where this was put on the deed, that they had to be aware it was in a farming area and so on. It is being done and I feel it could be a real strong part of better relations if people know, when they're looking at farm land, or at least a place in the country, that it's next to farmland and there will be farming activities going on there so that they go in with that in the first place. Then, if there are problems, that can be referred to, "You knew when you were coming in, so maybe we can discuss this," and see how it works for both the farmer and for the non-farmer.

The other part about this legislation that I feel is particularly important is that it is geared towards settling problems or complaints amiably and sensibly, if there is a problem.

It is my understanding that there are over 600 complaints per year to the board and that on average only about two end up in court. To me, this is a tremendous accomplishment. If, when there is a complaint, the two sides can get together, either on their own or through the board representatives, hear each others' points of view and try to come up with a solution, then we have made great strides in rural harmony.

Not only are farming activities necessary if people are to eat, but agriculture is one of the major industries of this province and plays a very important part in our economy. Agricultural exports are increasing and as we produce more and process more, job creation is also increased. This legislation can be a tool in helping agriculture do its job as an engine of growth in Ontario.

1300

In conclusion, I feel this legislation has two very important thrusts. One is to avoid problems arising from complaints. The other is to find ways of satisfactorily settling any complaints that arise.

We thank you for coming to hear us and we urge that you promote the passage of this very important legislation.

I also have — perhaps you want me to do it separately — a letter from a member of our committee who wasn't able to make it today who had an experience of being involved with a board hearing and feels there is real need for this. In this hearing he felt there was a weakness there, so he pointed out the weakness and some possible solutions. Unless you want to ask questions on what I've already presented, I will read the second letter and then I'm open to questions on either or both.

This comes from Fred Hassenbach.

"Allow me to suggest that the Farm Practices Protection Act be amended. The act should stipulate that solutions and/or directives given by the Normal Farm Practices Protection Board must be technically sound and/or have proven to be workable in the past.

"I submit that such a board has an obligation to offer workable solutions when problems do arise. In the past this has not always been the case. Here is an example:

"In the early nineties the Farm Practices Review Board heard a complaint from cottagers about a farmer (Derek Prinzen) irrigating his crops from his right-of-way on

West Lake. The objections were tractor noise and diesel fumes.

"The board directed Mr Prinzen to build a small, high-walled building with no roof in which to locate his tractor for irrigation purposes. The hours of operating were restricted to the hottest time of day (and irrigation is usually done during the hottest time of the year!)"

"Mr Prinzen contacted a great number of knowledgeable people. They all warned him that placing a hard-working tractor into such an environment at that time of year would create an extreme hazard for machinery as well as for people entering such a building.

"Mr Prinzen tried to get answers from the board whether their method has been successful elsewhere; and, if not, whether the board would compensate him for any losses that may occur as a result of their directive. The board kept silent.

"The board's silence indicates that their 'solution' was not properly researched. Had the board consulted experts in irrigation, they would have found a much better and less costly solution, a solution that would have satisfied both the cottagers and Mr Prinzen.

"Again, I suggest that this legislation should stipulate some form of accountability from members of the Normal Farm Practices Protection Board."

When I talked to Fred about this, he certainly wasn't diminishing the importance of the board and the need for it; it was just that he was offering a suggestion here that there are areas perhaps where the way the board functioned in the past could be improved when you're looking at it. This is not intended so much as criticism, but pointing out a problem and possible solution.

I'm open to questions on either letter or any other questions on this matter. The Prince Edward Federation of Agriculture feels this is a vital piece of legislation. We certainly are going to have more need for food in the future, and if farmers are going to do an efficient job, be world-class, competitive, then we have to have large machines, we have to work sometimes at night, and there are going to be times when there is dust and so on created. But I think if we can promote better understanding so that the non-farm people can also realize what is happening, the two can sit down. To me, the worst part is if there is conflict and, instead of the alternative of this legislation, it becomes a matter of suing. Then you end up with one party winning and the other being very upset. That doesn't foster good relations in the future.

If we can use this legislation, then hopefully it can lead to understanding and sitting down and discussing and coming up with an amiable solution so that in the future there can be good relations between farmers and non-farmers. As farms are becoming larger and more highly mechanized, the need for this becomes even greater, and of course, as fewer people are close to the grass roots of having been farmers themselves or their families having been farmers, there is less understanding. To me, it's two-pronged: if we can do a better job, use this for doing more public relations to explain agriculture and so on, and on the other hand, when there is a problem, then a way of

dealing with it without somebody suing somebody else. We feel it's very important and we appreciate the fact that you people are doing this.

The Chair: Thank you. We have three minutes for each caucus for questions. We begin with the Liberal caucus.

Mr Hoy: Thank you very much for your presentation this afternoon. The public relations exercise in informing people of where they are actually moving is one that has arisen throughout the hearings, and I understand why it's required. As you say, generations have been removed from the farm for so long, and of course farming has changed as well. It's not the same as it was even 10 years ago. It has changed very rapidly. You mention some solutions. A real estate agent you spoke to thought it would be all right to inform people. Have you given thought to any other mechanism for informing the public about rural Ontario in regard to agriculture?

Mr Williams: I haven't done a lot of work on this, but it seems to me we have a board here with a budget and we have organizations and farmers that are in support of this. Together we should work on trying to do public relations; maybe have a pamphlet at the real estate office or at the municipal offices and so on and any other ways we can promote the idea that agriculture is vital, that agriculture, if it's going to work, has to be on the road and has to work long hours and this sort of thing, so there's better understanding there. I feel any of the activities we can do for public relations is good.

Of course, this can't be just to farmers. The farmers themselves have to look at it and think we've got to be careful in how we spread manure and all these other things so that we try and do our share of the job too. It has to be public relations both to the farmers and to the non-farm people, but any avenues we can follow would be great.

Mr Hoy: Let me give you an example of how things have changed. Some time ago a dairy farmer in my area wanted to retire and let the herdsman move into his home and he was going to move into the herdsman's home, but he wanted to sever that land. They didn't allow it because, they said, "We're afraid of who the second person that's going to move into that home will be," down the years when he had passed away. Now what has happened in that same jurisdiction is that they are severing homes rather easily. If a farmer has excess housing, as they call it, perhaps he has multiple holdings as far as land goes and has six homes, lives in one, he can sever the rest. I've never done any study, but I suspect that many of the people who are moving into those homes are not farmers.

Mr Williams: This is a real problem.

Mr Hoy: It's just gone from one extreme to the other in certain areas of Ontario.

Mr Williams: Right. This is part of the reason why this is so important, because then they can say the legislation is there. If the farmer is doing normal practices and doing them responsibly, then there is some protection for the farmer. We all realize it doesn't mean he's allowed to pollute or allowed to do things that aren't proper, but it does give him some protection from nuisance complaints.

That's why this legislation is becoming more important all the time.

1310

Mr Bisson: I want to thank you because you've pointed out a couple of things that I think nobody has really gotten their heads around, and it shows the value of being able to come out to the public and to have people comment on bills.

I have two questions. The first one is for the parliamentary assistant and the second one will be yours. Before I do, just because I may run out of time, we'll probably put forward two amendments, depending on how this will work out technically.

The first question is, to the parliamentary assistant, would the government have a problem with making an additional clause somewhere in the bill that basically says, around the suggestion of the real estate agents advising people that they are going to be buying land close to or on agriculturally zoned land, that this law exists? Would there be a problem with that?

Mr Danford: That certainly came up in all the consultation and discussion that we had. How far we could go with it and whether it could be included in legislation that would require the real estate agent to do it, to put it into law, so to speak, was debatable. There certainly was appreciation from the real estate people who were involved in the discussion and they had no problem with it on an individual and local basis, but whether it could go as far as to be implemented in the act was doubtful, whether you could go that far and require that they "shall" do it.

Mr Bisson: That's my question, because you may need an amendment not in this act but under municipal affairs. That's what I'm wondering. Okay. We'll look into that and see what's possible.

The second one is your second suggestion around the letter that you got from Mr Hassenbach. We've seen that. Anybody who has been in the Legislature long enough would have dealt with any board. Sometimes the board makes a really good decision for really good reasons based on the facts, but their solution is just as unworkable as the problem. I think if there's any way of being able to put language in that clarifies that within good practices to be able to fix the problem would be a good one.

Again to the parliamentary assistant, would the ministry see that as a friendly amendment if we were to move something? I'm looking specifically — because I noted it in the bill under clause 5(4)(c) — if we were to add something that basically said that is technically sound and/or have proven to be workable in the past when it comes to the decision of the board. Would that be seen as friendly?

Mr Danford: I guess, without seeing it actually in print, it's pretty hard for me to answer that question.

Mr Bisson: I don't have it in writing. What I'm asking is a general direction.

Mr Danford: In general, the purpose of these committee meetings is to receive amendments through discussion or whatever to be dealt with later.

Mr Bisson: I understand that's the purpose of the committee but I'm asking you, would you see that as a friendly amendment?

Mr Danford: I think if you present me with what you've got in mind, then we'll take a look at it at that time and see whether it's friendly or whether it's possible or not.

Mr Bisson: I just heard the toilet flush. Thank you.

Mr Danford: You can take it whatever way you like.

Mr Fox: Thanks, Robert, for your presentation this morning. In the discussion that we've just had here, there's no question that after the passing of the bill there's going to have to be some follow-up to the message of the bill to coincide with the development in the future in rural Ontario.

You mentioned the situation that I was in and I would like to follow up on that for clarification to show the necessity of this bill. My operation is one of the larger animal units in the county, and at the same time there was a 78-lot strip development alongside of me. I have no problem with what the neighbour does with his property as long as it's in coherence with what we're doing and doesn't lead to problems down the road.

At the time of the rezoning of this property, I said I would go along with this as long as there was a clause in there stating that there would be excess noise and dust in the area because of my farm operation. It has been a big plus because it was put in the offers to purchase and it was put in the deeds. I have had neighbours who have complained in a friendly sort of manner. They know that because of the situation of it being a clause at the time of purchase, they have nothing to stand on. That's where the importance of this bill shows up for the future of other farmers and people in rural Ontario, to have a good communication between rural and urban. That's what this is all about.

Mr Galt: I'm curious about the letter that you brought forward. It's an interesting point that you have here, the weakness of this using proven technology. The changing in the wording from "accepted" to "acceptable" was to acknowledge new technology and that we wouldn't be outdated. Do you have a solution to try and balance those two things?

I think pretty stupid the recommendation to put a working tractor in a hot environment. It could easily go up to 150 degrees Fahrenheit in a building like that. But I can follow where it came from. They wanted to stop some of the noise and deflect some of it. How do we acknowledge new technology? I'm not saying you're wrong. I'm just curious. Do you have a thought here?

Mr Williams: The intentions were certainly good on this, but they weren't familiar with it. The part that's probably of concern here is that then the person who had to make the changes recognized that there was a problem with it, but at that particular time the board maybe wasn't flexible enough to go back and say, "Yes, we understand that there were complications we didn't think of, so let's look at what the alternative is."

As I was talking to Mr Hassenbach, apparently the alternative was — and I don't have the exact information — to put a very quiet, high-volume, low-pressure pump that would pump the water from the lake partway back to the farm. Then the high-pressure noisy one could pump it to the rest of the farm.

Again, with changing technology and ideas — I guess the solution maybe is if we can allow a certain amount of flexibility here. To me, that's what the bill is all about: instead of people suing because there's a noise or something, it encourages discussion and looking for solutions. I don't know whether I answered your question, but I think the thrust towards being flexible is the key to it.

Mr Galt: The kind of people who would be appointed to this board — I don't know if I have taken it for granted but I think they would understand that kind of thing and wouldn't have come forward with that kind of a recommendation. I'm rather surprised that situation actually happened.

Mr Williams: It may have been the first time they had dealt with that. No one is perfect and everyone makes

some mistakes, but if we can build a piece of legislation that's as flexible and as sound and sensible, then hopefully it will benefit everyone. To me, the idea is better relations because we need those people in the country and we need food and we need agricultural production. If we can find ways of increasing harmony, that's to me what it's all about and we're thrilled that you're doing this.

Mr Galt: Thank you very much for the presentation.

The Chair: On that very positive note, on behalf of the members of the committee we thank you for taking the time to come before us this afternoon with your experiences. We appreciate it.

Colleagues, that's our last presenter this morning. Just a few housekeeping notes. If you're going to take the bus and head back to Queen's Park, if you would be so kind as to pick up a sandwich downstairs, we'll lunch together en route. Those who are taking the bus tomorrow morning to Guelph should meet us at the front doors of the Legislature at 8:15. With that, we are adjourned until 10 o'clock tomorrow morning in Guelph.

The committee adjourned at 1317.

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First Intercession, 36th Parliament

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Première intersession, 36^e législature

**Official Report
of Debates
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Thursday 19 February 1998

Jeudi 19 février 1998

**Standing committee on
resources development**

**Comité permanent du
développement des ressources**

**Farming and Food Production
Protection Act, 1997**

**Loi de 1997 sur la protection
de l'agriculture
et de la production alimentaire**



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STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Thursday 19 February 1998

Jeudi 19 février 1998

The committee met at 1000 in the College Motor Inn, Guelph.

FARMING AND FOOD PRODUCTION
PROTECTION ACT, 1997LOI DE 1997 SUR LA PROTECTION
DE L'AGRICULTURE
ET DE LA PRODUCTION ALIMENTAIRE

Consideration of Bill 146, An Act to protect Farming and Food Production / Projet de loi 146, Loi protégeant l'agriculture et la production alimentaire.

The Chair (Mrs Brenda Elliott): Good morning, everyone. The standing committee on resources development is called to order. This is our third day of hearings on Bill 146, An Act to protect Farming and Food Production. As the sitting member for Guelph, may I take this opportunity to welcome all the committee members and staff to our great city. We're delighted to have you here. This is one of the very few times I haven't had to travel a great distance to go to a committee meeting — a special delight.

We've had two excellent days of hearings, some very interesting presentations, and I welcome all those in the audience and the presenters who are about to share their ideas with us.

ALBERT HITCHCOCK

The Chair: Our first presenter this morning is Albert Hitchcock. Good morning, Mr Hitchcock. Please come forward and make yourself comfortable at the table. You have 20 minutes for presentation time; you may use all of that time for presentation or you may allow some of that time for questions from the caucuses. Welcome. Please begin.

Mr Albert Hitchcock: Thank you very much. I'll tell you, this is hard for me, to get up here and try to express my opinion, what I think about Bill 146 and how it affects my life and the right to farm. I'm no speechmaker whatsoever, but I'll just give you some problems that have happened in our area. I'll start with it and please bear with me.

I've farmed on this farm for 35 years; my grandfather had it. What really disturbs me is the runoff of manure waste. I think we're all aware of that; we read about it in

the papers. We go back two years to try to get council to listen to what we feel is happening, and I know it's happening because I live 1,200 feet from these industrialized farm businesses. As far as I'm concerned, it gives the industrialized producers the right to pollute. You've probably heard that, and they'll deny that today. They're already violating the code of practice. Make this law and we would not be here today.

Due to the construction of these factories, our family, to live there in our future generations has changed. I get very emotional about this and I'm sorry; I can't help it.

Violations by this factory: What are acceptable farm practices? Spreading in winter and spring, holidays, altering the watershed — I'll get into that a little bit. When we went in to amend the bylaw, for them to change — a concrete pit was already in place and they wanted to change it back to an earthen one. During that time, they had no outside holding tank. They put 3,000 feet of tile, just missing their barn. I had a little reservoir just across the road from them in which we had frogs. As soon as they opened that up, the frogs were dying; they were standing on the shore.

These are just some little things: installing French basins in the low spots, which were situated on what I might say are the Rocky Mountains of Howard township. It's not only me; I'm not only speaking for myself. As a small farmer, we've got farmer against farmer who won't come forth, but I live with this and there are different people who do.

Installing French basins, like I said: If you're not aware of what a French basin is, they put these catchbasins in the low parts of the field and they put three quarter stone over top of their tile. They'll spread this manure and pump it right on to the ground, which eventually ends up in my private drain, which they have no permission to get into. They just went ahead.

I took my own water samples and fortunately there is nothing into it, but I took the surface waters of four wells in this area that has E coli in it. That was done by the department of health. There was one sample in one deep well — the first sample they found out had E coli. It's kind of unique that I live in this situation. We only have one factory there and the runoff has to come through my place or the neighbour's. We know what's going on because I live only about 12 feet from this private drain.

I'm not too proud to be an OFA member. They are only trying to protect the stakeholders and the right to farm, and

this is big business. It's discriminating, I guess you'd say, against us young farmers, who know what bad times are. I feel so sorry for the small farmers today who are getting locked into this, "We've got to feed the world." They're getting locked into contracts with these big industries which all of you well know are four- to five-year things — good times. There are farmers out there now who are obligated to produce hogs for these industries for five years. They're at a break-even point right now, and all they can say is "You're specialists." OMAFRA can say they're going to at least have their manure and cut down on the manure they have to buy. They have to pay the bills and they're not going to make it and they're losing their places now.

What really disturbs me is that we have officials here from the government, politicians, you might say, and we have a big dilemma out west, at Smithfield, to come in there and fight a battle over who's going to get Schneider's. If you read the papers — I learn a heck of a lot through the Ontario Farmer, and bless them for what they write. To allow a company like that, the biggest in the United States, maybe with Murphy's or whatever, to come in there with 22,000 environmental violations — I didn't know there were that many. They're up to amend a \$12.6-million violation in courts now. Is that what we want in Canada, Mr Hoy?

We, as concerned citizens, farmers, are being accused by the OFA member, a director, of using guerrilla tactics. That's far from the truth. When we got into this we tried to amend a bylaw, which we won because they didn't get their earthen one. We got active in there, so we set up a meeting, to have meetings with you, Mr Hoy. I think you were invited, and the council —

The Chair: It's probably better if you direct your remarks through the Chair.

Mr Hitchcock: Okay. I'm sorry. We sent out special invitations to all producers, the OFA, OMAFRA and even our council to come to this meeting, because the public knows now. They want to know. We filled the place. Even our own council in Howard township didn't show up — none of them, not one. What we wanted to do was put the problem we see in front of them, because we don't want another North Carolina. I'm sorry if I get offtrack a little bit.

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The Minister of the Environment is a do-nothing, see-nothing as far as we're concerned, and that's the truth. We've called him many times. We had a spill on which we've called him many times before, because this was happening because of winter spreading going into the catchbasins. This has happened before. They didn't do anything. They couldn't see anything wrong.

What happened was that on May 27 we had a liquid manure runoff into the drain into the millions. I took water tested before, and the E coli count was down a little bit because there was still a runoff before in there, and this ran eventually into the lake. If it wasn't for us doing six water samples, I don't think the Ministry of Environment

would have done anything, because they just looked at it before and it was see nothing, do nothing.

We took our water samples to the MDS lab. Fourteen witnesses saw it. Seven and a half hours later, which was 6 o'clock, the Ministry of Environment was called. We called Toronto. It took seven and a half hours for a guy to come from Chatham, to drive 20 miles. He took his water samples, we hear, at 1:30 in the morning and they were still in the millions.

The problem with what's happening out there — we don't blame just this company. It's big, industrialized waste we're talking about. They spread after dark, these companies. They work after dark. They spread their manure. You don't see it because everybody's sleeping. In four or five hours, it's all clear. When it's all clear, there's nothing there. This is the way I see with the environmentalists, how they work.

As far as I'm concerned, the passing of Bill 146 should be squashed. Like I say, if we had this farm practices into law, which is great — it's rolled up a good group of people — we don't have to go around with all this crazy rigmarole and we wouldn't have to be here today.

Now they're trying to deceive the young people today and say, "Everything is fine." The Minister of Agriculture has lobbied against this, saying — I will give you a quote from Dr Surgeoner which was in this Tuesday's paper, on February 7, and I quote, "We want to receive comments from the community as a whole, but we make it clear that we are not interested in hearing from people who want to shut down animal agriculture in the province." Doesn't that tell you something?

I'm a farmer. We've got a lot of smart citizens who came out there and bought these severance farm houses. We have lawyers, we have doctors, we have accountants, we have all kinds of smart people filing out there who try to enjoy the life in the country. I was there before these pig industries. I have the right to fresh water. Where we're situated, I don't know who — and I could mention his name, who comes out of Guelph saying it was the ideal place. We're on a glacier moraine. It's very fragile, our water, and we're worried about it. They don't seem to care. They seem to put these places on hills and very close to municipal drains.

All I can say to the Minister of Agriculture is get your house in order, because we've got proof of what we have got, and if you don't know, we're certainly going to tell you. You don't have to be a specialist or a doctor. All you have to do is put your technology with common sense. Common sense comes over everything.

We're not against the pig industry; we're all for it. There are a lot of good, responsible farmers out there and they're damned mad. I took a survey around there and 99% of the people didn't know what's going on. They are for us. I got a petition or whatever in the past. Even the people who work for these industries object to what they're doing.

You take the small town of Ridgeway and you surround it by big farms that are expanding. These big places are expanding even into the small farms. They

haven't got the room to get rid of their waste, and it's a waste to them. In 1963 when I first started, I had my own nutrient program. It's nothing new. You hand it to these big industrialized places and that is a waste. Make them pay industrial taxes, because it is an industry.

I'll close by saying I feel this industry, which is industrialized, is being irresponsible.

The Chair: Mr Hitchcock, did you want to answer any questions that members of the committee might have?

Mr Hitchcock: No, that's fine.

The Chair: All right. Thank you for your presentation.

CHICKEN FARMERS OF ONTARIO

The Chair: Do we have representatives from the Chicken Farmers of Ontario present? Please come forward. Good morning. Welcome to the committee. Would you begin by introducing yourself for the Hansard record.

Mr Mike Scheuring: My name is Mike Scheuring and I'm the chairman of CFO. We made a submission before the first reading, and I would like to make that submission again here to the standing committee on resources development.

We represent 1,096 chicken farmers in Ontario who produced 320 million kilograms of live chicken in 1996. Chicken consumption in Ontario grew tremendously in the last couple of years and it will continue on the same trend in the future. The production increased by 12% from 1993 to 1995. Production proposals or growth proposals for this year are already 7.5% above last year. Chicken production is a steadily increasing and growing business.

Some chicken farms in Ontario are on small acreage and very close to towns; some have had towns grow around them in the last couple of years. In order to continue our business of producing chickens and to supply consumers with the proper quantity and the highest quality of food, we need legislation which protects farmers who carry on normal farm practices.

The Chicken Farmers of Ontario are in full support of the OFA submission and we would like to highlight some points as especially important:

(a) Expand the list under subsection 2(l) of the act to include light, vibration and flies.

(b) Broaden the scope of the definition of an agricultural operation in the amended act to include the movement of transport vehicles necessary for the farm operation.

That is a special point for chicken farmers because feed deliveries, for example, are done on a 24-hour cycle. Big feed trucks with trailers can come in at midnight or any time of the day. Catching of chickens normally happens during the night. On an average farm, for example, you may have up to 12 tractor-trailers — and they are using now the biggest sizes possible; I think it's about 53 feet — and you could have the movement of dozens of tractor-trailers between 10 o'clock at night and 6 in the morning going in and out of a farm. That is part of the business. It can't be done differently. So this point, the movement of transport vehicles, is for us especially important.

(c) The Farm Practices Protection Board should be the only forum dealing with nuisance complaints and it should be empowered to review and void municipal bylaws that it believes are placing undue and unwarranted restrictions on agricultural operations.

(d) A code of practice for individual commodities established by commodity boards, groups or organizations, updated regularly to cover new, evolving farm techniques, should be the base information for the Farm Practices Protection Board. This will set certain standards without taking flexibility away from the board's decision-making ability.

(e) The revised Farm Practices Protection Act should include a purpose statement in the legislation to protect farmers who comply with normal farm practices against nuisance complaints and restrictive municipal bylaws.

(f) A warning statement on land titles in agricultural areas would be helpful for farmers, new and existing residences and the municipality. It would help prevent problems and nuisance claims from occurring.

(g) Decisions of the Farm Practices Protection Board must have a high profile in the legal system. The board should have the power to void municipal bylaws which place unwarranted restrictions on farmers operating within normal farm practices.

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Chicken farmers cannot operate at all if some current farm practices are restricted for the public good, and they cannot satisfy growing market needs without stronger protection in the future. Your decision tries to find a fair balance between rural residents and farmers, which we fully support. However, there are limits which go beyond cooperation. Many farmers can avoid dust, noise or smell on certain days or at certain times, but chicken farmers have no option on operating hours. Our exhaust fans must run 24 hours a day, seven days a week. We cannot switch them off on a Sunday, we cannot stop loading chickens at night or restrict feed delivery times, and we need legal protection to maintain our normal farm practices.

We think that a revised and strengthened Farm Practices Protection Act is of utmost importance to all chicken farmers in Ontario, and we ask for your support of the OFA submission as well as ours.

The Chair: Thank you very much. That leaves us with four minutes for questioning from each caucus. Are there questions from the government caucus?

Mr Ernie Hardeman (Oxford): Thank you very much for your presentation. I was somewhat intrigued. In the past we've had a number of instances where applicants request to have something placed on title to warn people who are moving into the community of what they may expect. I see you mention that in your presentation, that a warning statement be put on title. I wondered how the farming community deals with the fact that you would call that a warning statement. What are we warning people about? Does the farming community feel they are being warned beyond normal farming practices, that in fact they could expect more than what is allowed? I have some concerns about placing warnings, about why, if we all

agree that normal farming practices are acceptable for all in the community, we'd want to warn beyond that.

Mr Scheuring: The word "warning" might be a little bit too strong; maybe more the word "caution." I know of a case where a chicken farmer lived in his area for the last 20 years and suddenly the township started to develop the other side of the road. He was lucky that he got the municipality to let people know what they have to expect when they move in there, when they buy property there. That is all we want. We don't want to go beyond normal farm practices, but if someone moves out from the city and moves to a rural area, if they are aware that the farm which is sitting maybe a quarter mile off or opposite them on the road has night traffic of heavy trucks, for example, or about the smell, which cannot be avoided, it may change their mind about moving in or they may accept it when they move in. With this, we could avoid these nuisance complaints later on. Avoiding nuisance complaints is actually the main issue we want to achieve with that.

Mr Hardeman: My concern is that if we as a province are going to have a policy that says that if you live in the farming community there are certain standards of normal farming practices that all should expect, and if we still leave in place a warning for certain areas and certain types of operation, that would imply that someone moving into that community today would not get a warning, and then because the farming changes would now require a warning, some would get it and some wouldn't. I think that's less than fair. I think we should all be aware of what's out in the country and accept that level.

Mr Scheuring: Another suggestion might be to have a general caution note that in general if you move into a rural area, there are farmers which use normal farm practices and you should expect that; just very general, and then people could get detailed information on the areas they want. It's just to let people know it's different than somewhere in a subdivision near Markham. There is a smell and there is some noise.

Mr Hardeman: Your suggestion is that this would be put in every deed in the rural area, that there's a caution on the deed to say you are living in a farming community and there are some attributes to living in the country that are not quite the same as living in the urban area.

Mr Scheuring: If that were possible, I think we could avoid a lot of nuisance complaints in the future.

Mr Harry Danford (Hastings-Peterborough): Maybe I could just follow up a little further with the point Mr Hardeman has made. It's a good point, and I want to assure you that it was certainly brought up in all the consultations from the very beginning, before the draft legislation was even put together. But when everything was dealt with, there was also a concern about whether that should be the route to go or whether we should go that far, so to speak.

In light of that, I want to make you aware that there is intended to be an awareness program to allow those people who are considering moving to a community — either through the municipality, because usually they will

visit the municipality for some information about something, at least it's the usual procedure, through the municipal councils, their staff, even through their real estate agents, because they were part of the consultation too, and they also realized they should do this because it raised their reputation, that they were up front and everything. Certainly within our ministry we'll work towards an awareness program to offset some of those conflicts that might arise from not being aware if something happens. I would just make you aware that is certainly part of the process and will be part of it when we continue on with this bill.

Mr Pat Hoy (Essex-Kent): Good morning, and thank you for your presentation. I want to follow up on the comments of the previous two members. In providing advice or a caution or whatever term we would use about life in rural areas, I think we'll have to look beyond what we consider just the concession roads, because you could move into a village or town and still have agricultural events taking place just outside of that. I hope the parliamentary assistant and the government would understand that this type of notice would probably have to apply even to cities, on the fringes where the city begins and ends and agriculture starts again, just as a comment to them.

I'm aware of why farmers catch their chickens at night, but for the benefit of other members on the committee, could you explain why this is done at night rather than at 2 o'clock in the afternoon?

Mr Scheuring: It's not done only at night any more; it's also done during daytime. But slaughterhouses normally start at 6 o'clock in the morning, and they need a fresh supply of chickens. You cannot have these chickens standing in trucks for all of the night if you catch them the afternoon before. They will be caught at night in the dark because that is least disturbing and that's the most gentle way to do it, actually, with these birds, because then they don't get excited. If it's dark, they stay very quiet. Then you have the fresh supply as soon as the slaughterhouse starts, at 6. Say, for example, a farmer is just three hours away from a slaughterhouse and he takes three hours to load that truck; that makes six hours, so the slaughterhouse would have to start at 12 o'clock at night with a fresh truck and then go on until the farm is cleaned out.

Mr Hoy: So there are good sound reasons for doing that at night.

Mr Scheuring: Yes.

Mr Toby Barrett (Norfolk): You can't catch them in the daylight.

Mr Hoy: I understood that, but I thought other members may be interested in that, and others who might be attending here today.

Have the members of your organization, the Chicken Farmers of Ontario, individually taken part in the environmental farm plan?

Mr Scheuring: Yes, but that was up to each individual member to do that. As a board, we did not get into that. That is out of our mandate actually, but I know of many chicken farmers who took part in that.

1030

Mr Hoy: There's also a discussion that I think is part and parcel with this bill and should follow immediately, and it's being discussed now. It is known as nutrient management, and that might also be termed manure management. Is your organization in discussion on the formation of nutrient management plans for all farms?

Mr Scheuring: We are fully aware of it. I personally was here at a meeting about nutrient management about two weeks ago, and we will follow up that group and that organization and we'll see where it goes. We don't know yet what will actually happen, but in general, the Chicken Farmers of Ontario already have strict disciplines and strict ways of handling or running their farms. They have to clean out after every crop and so on. We have strict limitations and management practices within our organization, for example.

Ms Marilyn Churley (Riverdale): Thank you for your presentation. I think one of the major reasons that we're having hearings on this bill — for which there is, frankly, all-party support — is our party did have some real concerns about the very issue Mr Hitchcock referred to, and out of all the letters I received as the environment critic for my party, that is the major concern. There are others, but that is the big one, and I think I can say that's the major reason we're having the hearings, although it's good to hear from people on all the aspects. Do you have any comments on that, what might be changed? Do you, number one, agree that it's a problem treating these big pig farms as part of normal farming as opposed to big industry, and two, do you have any suggestions of what could be done about that?

Mr Scheuring: When I came in, the presentation was already under way, so I did not hear the whole presentation. From the standpoint of representing the Chicken Farmers of Ontario, I don't think it would be right for me to interfere with the pork industry, because I'm not specialized in that and I don't have the information.

Ms Churley: You don't have a comment on that. My other question then is related to what you talked about. I refer to land use planning, because you have talked about one aspect of the problem, with people from the cities moving in and interfering with the farmer's right to farm, and I agree that's a real problem. You talked about one suggestion as to how we might deal with it.

Another one is in terms of land use policy itself, in that this government changed that policy to terms that the municipality must have regard to provincial policy but doesn't have to adhere to it. I have a concern, with the downloading that's going on now and the costs that's going to cause for municipalities, that there could be more of a push to subdivide farm land for tax dollars etc, because that has now opened up. Could you see that it would make sense for the government, working of course with the farm community, to come up with some fairly strict land use policies to avoid that kind of deterioration of the farm land? Would that also help?

Mr Scheuring: Yes. The farming community would be willing, I guess, to take some strict guidelines in that

respect. If we can get protection that our normal farm practices are accepted as updated, for example, I think most farmers would accept very strict guidelines with respect to subdividing the property and so on. Yes, I think so.

Ms Churley: So even though that's outside the scope of this bill, that's something that we might want to recommend to the government, that it start working in consultation with the leadership in the farm community to look at the guidelines and policies around land use?

Mr Scheuring: I think there's a possibility to go in that direction, yes.

The Chair: On behalf of all the committee members, we thank you for taking the time to come before us this morning and share your ideas on this bill. It's appreciated.

AGCARE

The Chair: I'd like to call now on representatives from AGCare, please. Good morning and welcome. Make yourselves comfortable. When you begin, would you please introduce yourselves for the Hansard record.

Mr Jim Fischer: My name is Jim Fischer. I chair AGCare. Mary Lou Garr is vice-chair, and Dave Armitage is our secretary of AGCare.

I'd like to briefly go through with you what AGCare is about, some of the activities of the organization, our support of the bill and then wrap up.

First of all, AGCare stands, as you see in front of you, for Agricultural Groups Concerned About Resources and the Environment. We represent about 45,000 growers, field and horticultural crop producers, and our main emphasis within our mandate is dealing with pesticide use, pesticide-related issues, biotechnology-related issues on the crop sector, and to some extent, which you don't see in front of you, a little bit with regard to water quality issues as well.

Our primary role at today's hearing is to support Bill 146 and to demonstrate the commitment of Ontario's farm community to address environmental concerns associated with various agricultural production practices.

Right-to-farm legislation is of critical importance to farmers in virtually every jurisdiction in the developed world. When compared to most urban areas, a typical rural area can justifiably be described as a tranquil refuge, yet it must be recognized that farms are located in rural areas and farms are sites of essential industrial and various business activities, namely, the production of food and fibre. Ontario farmers have been well served by the Farm Practices Protection Act since its introduction into legislation back in 1988, but the amendments proposed in Bill 146 will provide an extra measure of certainty to the industry as it moves into the next century.

I'd like at this time to give a couple of personal comments. Personally, I live right near, or some would suggest in, the town of Walkerton, because we are adjacent to that town. Some of our property is within the boundary. These are just little tidbits that may help you further as to what we're all about. We live along a

subdivision, and the irony is that we get along very well with those people, all those houses lined up there. I would suggest it's because this is in an urban setting, these individuals, in the town of Walkerton, looking out into a rural setting. However, where our second farm is, which is two miles down the road, there may be some concerns, not so much now but in the future where we have an individual from an urban setting living in a rural area and seeing that so-called tranquil setting.

On another note, I can fully understand why that tranquil refuge imprint in our minds or in some of our urban friends' minds is there. In our instance, we have friends who come up from London. They visit once a year. My wife and I invite them at a time when we're not busy and they witness those times of a tranquil, quiet setting, not when we're spreading nutrients — or as you call it, manure — but they are nutrients, not at a time when we're combining or there's dust or there's noise, normal farm practices. So it's understandable why people may view that and look at it in that light, and those are just a couple of personal experiences on our own farm.

Following on here, at a recent annual meeting of a major farm organization, a presenter suggested that the environment has evolved from being an issue to being a value, and I would concur with that fully. But I would suggest as well that this is in no way a revelation or something new within the farming community. The majority of farmers have always considered the environment in that light, given that their livelihood is dependent on access to soil, water and air that will support the production of crops and livestock, as well as our families. We live in this environment; our children live in it. Our children grow in this environment. My spouse, our children and I swim in the river along our property in this environment. It's a reality.

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Farmers are gravely concerned that there are citizens of this province who view the protection offered farmers through right-to-farm legislation as a right to pollute. This is simply untrue and I'm appalled if I ever hear it. Farmers have a genuine desire to maintain and enhance the environment. I would like to briefly touch on several programs that farmers, over the years, have developed. Recently, most have developed or assisted in developing to ensure that farming activities do not compromise the integrity of the environment.

I'll begin with the grower pesticide safety course, which I think some of you are already up to speed on. It was an initiative originally postulated by AGCare about 10 years ago to ensure that all farmers using pest control products, pesticides, are up to speed in the latest ways of handling and storing and applying these pest control products. The need was there. Currently we have 42,000 Ontario farmers certified through this program. The importance farmers place on this training is evident in that they are willing to recertify every five years in order to keep abreast of new changes that come along. This is an ongoing thing, as with any technology. The initiative was new, unique. It worked. It was something unheard of.

Another example draws on the activities of the Ontario Farm Environmental Coalition, which you're likely up to speed on. If not, it's OFEC and it started in 1991. It was established by this group, AGCare, along with the likes of the Ontario Federation of Agriculture, the Christian Farmers Federation of Ontario and the Ontario Farm Animal Council. The intent was to develop an environmental agenda for our Ontario farm sector. Over the course of several months a 26-page document, *Our Farm Environmental Agenda*, was prepared that outlined a number of environmental concerns that we farmers had identified, and we proposed strategies for addressing the concerns that came out of those meetings. Once completed, the document was released for public scrutiny — not, I would suggest, the approach one would expect if farmers were interested in pursuing so-called right-to-pollute legislation.

With this document we were open, we were forward. We brought in other groups — non-farming groups, government, non-government, environmental groups. The books were open: "This is where we're at and this is how we want to proceed." We were very forthright, up front and honest with the approach, far from being what was suggested, that we want to pursue right-to-pollute legislation.

Immediately following the release of *Our Farm Environmental Agenda*, OFEC turned its attention to developing and implementing what has become known as the EFP, as you see in front of you. The primary objective of this program was to raise the awareness of Ontario farmers with regard to the impact of agricultural production on the environment. It is a voluntary program that has attracted over 11,000 participants to date in these past five years. Data collected by the various people, the administrators involved in the program throughout the province, indicate that Ontario farmers have invested close to \$20 million dollars in on-farm projects geared specifically to address environmental concerns, and we're not even talking of the multitude of other projects or initiatives, or whatever you want to call it, that farmers have been involved in outside this whole EFP process.

The high calibre of the EFP program is clearly demonstrated by the international recognition it has achieved. Detailed information on the development, implementation and administration of Ontario's EFP program has been requested by a number of people within the agricultural industry, not only in this country but in the US and the continents you see in front of you.

Other OFEC initiatives worth noting relate to water quality in general and nutrient management in particular, as was addressed a little bit by the previous speaker. Again, the primary objective of these important initiatives is to determine how farmers can carry on the day-to-day business of farming, of producing food, without compromising the environment in which they operate. It is noteworthy that a recent draft document outlining a nutrient management planning strategy includes the following principle: that farmers do not have the right to

violate pollution laws, and anyone doing so should be held accountable.

Finally, the Ontario Federation of Agriculture has overseen the production of a best management practices series of publications which have been out for some time. They are focused almost exclusively on environmental protection. Topic areas range from field crop production to fish and wildlife habitat management, with eleven titles currently in print and two more in the final stages of publication. Each of these publications offers practical, realistic, affordable approaches to conserving a farm's soil and water resources without sacrificing the ability to produce food.

Given the above list of environmental initiatives undertaken within the farming community, I respectfully submit that the majority of farmers are excellent stewards of the land they own and/or operate. AGCare strongly supports enforcement of such environmental statutes as the Environmental Protection Act, the Ontario Water Resources Act and the Pesticides Act. Bill 146 offers no protection to farmers in violation of any of these statutes, and this is good.

AGCare would also like to lend support to a wording change in Bill 146 with respect to the definition of "normal farm practice." It is our understanding that the Farm Practices Protection Act defined "normal farm practice" in terms of a practice that was "proper and accepted," whereas Bill 146 refers to a practice that is "proper and acceptable." In our view, it's a little tidbit but it is very important in how it's presented. The word "accepted" relies on a historical perspective while the word "acceptable" provides a more contemporary or perhaps more futuristic perspective, given the fact that it is of particular importance to this organization, AGCare, given our interest in agriculture biotechnology as a production tool. Agricultural biotechnology is an emerging technology that as yet could not rightfully be described as "accepted" simply because the production tools it offers have not been available for a sufficient length of time yet to determine whether or not they have been accepted. However, if farmers are convinced that agricultural biotechnology contributes to the production of an abundance of safe, good-quality, nutritious food, with reduced environmental impact in the producing of that food, it could certainly be described as acceptable.

In summary, I've given a brief overview of AGCare, its mandate, what we're all about. I've emphasized that the bill is not a licence to pollute. I've emphasized some of the initiatives of AGCare as well as of other organizations in agriculture that are involved in terms of maintaining or enhancing the environment. In final summary, AGCare offers its full support to Bill 146. On behalf of Mary Lou, Dave and myself, I thank you for the opportunity of being able to spend a few brief moments with you here today.

The Chair: Thank you very much. You have left three minutes for each caucus for questioning. We'll begin with the Liberal caucus.

Mr Hoy: Good morning. Thank you for a very clear and concise presentation as well as the information on

environmental farm plans and on some of the work you've done in the past and are currently involved in. You're quite right that none of us here on this committee wants to create a law that would allow farmers to pollute, and farmers themselves don't want a law that allows that to occur. I would say that most farmers are very good stewards of the land, water and air. After all, that is, as you point out, how they will make their livelihood not only for themselves individually but for their families. However, just as some people would disobey the laws of the road, our highways, there may be those who go outside the normal farm practices that we would all like people to take part in. So there will be potentially legitimate claims, and I think that Bill 146 provides an avenue for those legitimate complaints that may from time to time occur.

You're quite right in pointing out that all other environmental protection laws will still be there. The Pesticides Act, the Health Protection and Promotion Act and the Ontario Water Resources Act must still be adhered to. However, I have a concern that if we have the best of laws for all concerned, rural, urban, farm and non-farm persons, we have to have an enforcement mechanism. Currently, the Ministry of the Environment has been downsized drastically. I know of situations in my riding where the people I used to talk to at the Ministry of the Environment are gone now. Do you have any particular advice or comment to make on the enforcement of these and other acts as they pertain to the environment?

1050

Mr Fischer: First of all, if you look at what we've done with the the environmental farm plan, we've taken a proactive approach. Within its history, the intent of it was to govern ourselves. Where there are problems, let's address them and look at them, the same as we are doing right now with nutrient management, with the ultimate intent — yes, you're right, the world is not perfect, there will be some people, as in every industry, every situation, who will not do right — with the intent to limit the number of those negative things that may happen, whatever they may be, to a very basic minimum. The intent, then, after that is that basic minimum can be dealt with. But there will be that situation out there. That's reality.

As far as specifics, Dave, perhaps you may want to comment on this as well. But we've taken the proactive approach to try to address it, realizing that it needs to be addressed. The EFP is a classic example of how we and the others who have been involved in putting that together were likely not blowing our horn well enough in the farm community on how well it's been done. Dave?

Mr Dave Armitage: What I might offer with respect to nutrient management is that we are proposing — that is a draft document that you have before you, but it is proposed in there to set up local advisory committees, not to deal with violations of legislation but to deal with non-legislative issues, issues that might be of concern to people living in the country with respect to nutrient management. So that is a cooperative approach and very much a peer pressure approach to these sorts of issues, where a committee comprised of farmers and non-farm residents

can bring some pressure to bear on people whose farm practices may not be violating a statute but may not be what we consider to be normal, so that happens.

Ms Churley: Thank you for your presentation. I'd like to ask you the same question I asked the previous presenter. Were you here for Mr Hitchcock's presentation, by the way?

Mr Fischer: I was here for part of it, yes.

Ms Churley: As I said, I've received letters and phone calls from a lot of small farmers who expressed, with a great deal of emotion, I may say as well, as we heard from Mr Hitchcock today — I certainly got the impression that some felt very uncomfortable that there's overall support for this bill, as we well know, but small farmers who have seen at first hand, like Mr Hitchcock, what could happen with these huge industrialized pig farms. I want to focus again on that and see if you have any comments as to whether you personally have seen any of these concerns and if you have any suggestions to the committee today as to what might be amended in the bill or something that can be done outside the scope of this bill to deal with the big industrial farms.

Mr Fischer: First of all, the challenge to you is to separate the difference between emotion and fact. That is very, very important. I think when you're dealing with the facts and dealing with the truth, you realize it may not be as much of a concern as what may have been presented.

The second point: With regard to what the farm community is doing with regard to nutrient management, at a time when we're seeing things get bigger, farms get bigger, industries get bigger, companies amalgamate, I think we're doing very well to try to address that concern. Again, it's the farming community and others being proactive on it.

Ms Churley: Some of the examples cited were North Carolina and Iowa, I believe, which were the two states specifically mentioned time and time again as states where there were no controls put on these huge megafarms and in fact it was very real. The fish were dying, water couldn't be drunk or swum in anymore. Do you believe those are facts and do you believe that could happen here if controls aren't put on those pig farms?

Mr Fischer: I don't believe it can happen here because we've taken a proactive approach second to nowhere else in the world to address this before it can happen. I'm not exactly sure what the situation is in California; I do know there are some big outfits. But we are looking after it. We've realized the need to do it. Mary, did you want to say anything on this?

Mrs Mary Lou Garr: I was just sitting here thinking that we have already excellent controls in Ontario for those situations. We have the Environmental Protection Act, the Ontario Water Resources Act and the Pesticides Act. I think maybe what you're trying to look at is, what is the family farm and what is an industrial farm?

Ms Churley: No, I'm not trying to look at that. What I'm doing is addressing some very real concerns which have been expressed by the small farmers about the real possibility and in fact some real pollution that's already

happened and the concerns that can be exacerbated by this bill. I'm looking at that very real concern that's been expressed and how we can deal with it.

Mrs Garr: I think the controls are there under various legislation, whatever the size of the operation. We in the farm community are drawing all of those operations, whether large or small, into what we're doing in terms of nutrient management planning and environmental farm planning. That's our focus.

Ms Churley: So you don't think the concerns being expressed by these small farmers are real. You think that they're paranoid or — I don't quite understand why they should be expressing such fears when you say that they don't exist. I'd like to be reassured.

Mr Fischer: First of all, what is your definition of a small farmer?

Ms Churley: I would say the family farm.

Mr Fischer: Let me say to you then, if I may, we're a family farm. My wife is an equal business partner. Our children are involved; one is 18 and one is 15, daughter and son. I would describe us possibly as a medium-sized farm of a 70-cow herd, 250 acres, maybe small in terms of some of the larger outfits, and I don't have that concern. That's the reality. The likelihood is that maybe we're going to try to go that route as well. I have a concern when you raise that, what is a small farm?

Mr Armitage: I was just going to suggest very quickly that the point you're making, I think there are those types of situations you describe, but getting back to the language in this bill, I would suggest that a normal farm practice would not result in the sort of environmental degradation that you're describing. So I think this bill would not protect anyone who was doing the sort of damage you're describing.

Mr Danford: Just a short comment: I was pleased to see that you did make a particular point of the fact that farmers do not have the right to pollute. Through all the consultation, from all farming groups, from everyone who participated, I think that was well mentioned, certainly well endorsed. I think it was also said that farmers have a vested interest in controlling and managing their nutrient disposal because it is an asset and a value to them in their production of crops or livestock, either one.

Given the fact that there are other acts in place that already deal with specific circumstances — and I'm talking about the environmental act, water resources, pesticides, for instance — do you feel that Bill 146 then does provide that balance to look after the other practices that are carried on and provide a balance between rural and the farming community?

Mr Fischer: Absolutely, both sectors very well.

Mr Hardeman: Thank you very much for the presentation. I too appreciate your comments that this is not a piece of legislation to give farmers the right to pollute. The minister has made that statement a number of times and it bears repeating, because the legislation that always has applied to all members of our community, farming and urban, still applies. This deals with how we deal with normal farming practices and disputes and if farmers do

things that are beyond an acceptable practice, that they are still prosecutable, as they always were.

I do want to question the comments you made in your presentation that relate to "accepted" and "acceptable." If we're to accept the change to be "acceptable" as opposed to "accepted" — and I agree with your analysis that "accepted" is based on historical practice as opposed to a futuristic approach. But if you change that word, how would you decide, or who would decide, what is acceptable?

I had some concerns in a previous presentation that there was some suggestion that the commodity board or whoever was involved with that industry would set that "acceptable," and I have some concerns that you have to have a standard for the board to judge by, as opposed to the people involved in the industry, to actually be able to set that standard at any appropriate time. If it went to "acceptable," how would you set that acceptable practice?

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Mr Fischer: I actually don't know. We only use crop biotechnology or biotechnology in general as an example of an emerging new technology. My goodness, if we dream a little bit, what else is coming down the pike in terms of new technologies that have in many instances, I would suspect from previous history, significant, positive benefit to society in general? I don't mean specifically the farming community; I mean more nutritious food with respect to biotech, but who knows what else? That's the reason we wanted it in there.

When we say "accepted," we're dealing with the past in an instance, and it just would allow this new technology to continue then to be evaluated better. I know I'm not exactly answering your question, but that's the intent and the reason behind it.

Mr Hardeman: If I could just go a little further on that, if you use the word "accepted" but also include the clause of the bill that says the minister can by regulation set that accepted standard, would you not see that that solves your problem, as opposed to changing it, that if there was new technology that was required, a case could be put forward and the minister could, by regulation, then say that is an accepted standard?

Mr Fischer: That would be a step in the right direction.

The Chair: With that, on behalf of all the members of the committee, may I thank you for bringing your ideas before us this morning. We appreciate your input.

Mr Fischer: On behalf of Mary, Dave and I, I thank you as well.

PROTECT

The Chair: I'd like to call now upon representatives of the group called Presenting Recommendations on Township Environment Concerns Together. Good morning and welcome. Make yourselves comfortable. Please begin by introducing yourselves for the Hansard record.

Mrs Anna Frayne: Good morning. My name is Anita Frayne.

Mr Lawrence Hogan: I am Lawrence Hogan.

Mr Mark Sully: Mark Sully.

Mr Paul Frayne: Paul Frayne.

Mrs Frayne: Madam Chair and members of the committee, on behalf of PROTECT, I would like to thank you for this opportunity to present with respect to Bill 146.

We are here today representing a large group of residents from Ashfield township. I would like to take a little time to explain to you who PROTECT is and what we are about.

PROTECT, which stands for Presenting Recommendations on Township Environmental Concerns Together, was formed early last summer by a group of concerned citizens in Ashfield township, which is in the northwest corner of Huron county fronting Lake Huron. Our group includes farmers, cottagers, business people and residents who believe that the environmental wellbeing of our community is being threatened by the introduction of more and larger intensive livestock operations in our township. We believe that this move to agri-industrial-intensive livestock operations poses a profound environmental threat. Research indicates that improper management and/or distribution of liquid manure from these sites, whether it be from weather conditions or human error, has resulted in serious long-term damage to water supplies. Our concerns are based on and confirmed by the experience of jurisdictions worldwide where this industry has been permitted to expand without enough restrictions and controls and where the environmental sustainability of this type of production is now being seriously called into question. The cost-saving strategies which come with these operations must be weighed against their environmental impact. Cheaper food begins to look much more expensive if its production entails serious environmental damage.

Unfortunately, limitations in existing safeguard regulations and municipal bylaws, coupled with nominal penalties and policing to enforce safe practices, give the impression that responsible land stewardship is not a priority. PROTECT believes responsible land stewardship must become a priority for everyone to ensure that safeguards are implemented prior to the development of problems, not after the damage is done.

The primary goal of PROTECT has been to increase public awareness on this issue. Our thrust has been to educate ourselves and become well versed on this subject with the hope of enabling our group to provide input on identifying, addressing and preventing potential problems. To this end, since last summer, a number of initiatives have been undertaken in our area, at group and municipal levels, to try to address current and potential water quality problems.

We would like to strongly emphasize that PROTECT is a pro-farming group. The value of Huron county's agricultural production is of national importance. This fact does not escape us. Many of us are livestock farmers. We all recognize the demand for livestock production and understand, respect and encourage legislation which will protect and support it. Our concerns focus around the

intensity or concentration of production in a given area and the environmental impact of that.

The business of food production is changing rapidly, and in particular rural Ontario is experiencing an unprecedented growth in the size of livestock operations. For this reason the right to farm must be balanced fairly and responsibly with the legitimate rights of those who live and work in rural Ontario. If these concerns which are shared by a growing number of people are not addressed, it will be a grave disservice to all Ontario residents, but more particularly to the very sector the proposed legislation is attempting to protect, the agricultural community and the intensive livestock producer. Thank you. I would now like to turn it over to Mark Sully.

Mr Sully: Out of our meetings with PROTECT — and it was quite interesting to see the number of people who were attending; there are a lot of concerned people — we came up with three points we would like to suggest for your consideration for input in this right-to-farm legislation. I have changed somewhat the material that I have provided, although I think you can catch the general gist of what I'm saying. The areas we're concerned about in the right-to-farm legislation are:

(1) What is covered under the definition of "normal farm practice"?

(2) The bill's ability to take precedence or override local municipal bylaws.

(3) The concern that this farming and food production legislation will prevent or obscure the ability to create and enforce existing or future environmental laws.

Should we be concerned? In the summer of 1991, a rural well water survey was undertaken in Huron county by Centralia College of Agricultural Technology. This survey was published by the Ministry of Agriculture and Food in July 1992. Four hundred wells were surveyed throughout the county, with samples taken from wells randomly in a manner that provided a comprehensive overview of the types of wells and quality of water being used by our rural residents. It definitely will be statistically accurate with just the numbers of wells that were sampled. The results indicated:

That 41% of the rural population utilized water from dug or bored wells — those are wells with an average depth of 25 feet — and 56% of the population had drilled wells, which had an average depth of 125 feet.

That 37% of all wells had unsafe total coliform and faecal coliform bacterial levels. Alarming as this might be, it is even more startling when we recognize that this is the average for both dug and drilled wells.

That over 40% of the rural population rely on water from dug wells. Over 73% of these wells exceed the unsafe drinking level of 10 organisms per 100 millilitres. The average dug well in Huron county exceeds 50 organisms per 100 millilitres. The average is five times, or 500% higher, than allowable.

Over 30% of the county's dug wells also exceed the acceptable nitrate levels, which is 10 parts per millilitre. This is fact, and this is a real health concern now. We are concerned and we think you should be too.

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We are blessed in Huron county and Ashfield township with not only productive and beautiful farm land but also our proximity to Lake Huron. In Ashfield township over half, about 62%, of our tax base is derived from recreational residential ratepayers — they probably take up about 1% of the overall land base — most of whom are attracted to this area because of the lake and its beaches. However, we are experiencing an increase in the incidence of beach closings due to unsafe swimming conditions from elevated faecal coliform levels.

Why do our groundwater, rivers, streams and lakes have such high faecal coliform and nitrate levels? Why is our water unsafe to drink? Why is our lake unsafe to swim in? What are the causes? How can we remedy the situation? Does it matter? Is anyone doing anything about it?

We are here today because we are concerned. We are concerned with the present situation and extremely concerned that the present environmental status will become progressively more unhealthy in the future. We know that the health risks identified by elevated faecal coliform levels now measured in our groundwater and lakes are coming from the manure of warm-bodied animals. What we don't know is the exact source.

Huron county's agricultural production is tremendous. Over 80% of the land base is zoned agricultural, almost all of this being either class 1 or 2. Both agricultural crop and livestock production are important and significant in a global sense. Today Huron county's livestock output creates manure equal to a human population of approximately three million people. There are approximately 30,000 people residing in the county's rural areas. Therefore, we know today that 99% of the warm-bodied animals creating manure, which is the source of faecal coliform, are domesticated animals and that 1% of the faecal coliform is created by humans using septic systems.

We have a rural environmental problem that's a health hazard today caused by elevated levels of faecal coliform, and 99% of the total faecal coliform in Huron county's rural areas is created by domesticated animals. To address the problem, we must at least consider the source.

We are concerned that the legislation in Bill 146 does not face the fact that we have a real environmental problem now. We are concerned that this legislation will provide a method to continue ignoring our existing environmental problem and make it increasingly difficult to resolve this problem in the future.

The points we would like to address in the legislation are as follows:

(1) What is "normal farm practice"? We question categorization of large, intensive livestock production as farming. At what point does it just become big industry or a big factory? If the normal farm practice has a negative impact on the environment, does this make it okay? If it is assumed that normal farm practice will always be environmentally sound, then why not be specific and include this assumption in the definition of "normal farm practice"? For example, you could say, "Normal farm

practice, provided this practice does not have a negative impact on the environment.”

(2) We strongly object to Bill 146 providing provincial powers that override a municipality's ability to create bylaws to regulate farming. The power to strike a municipal bylaw ignores the fact that these local bodies are in the best position to make and enforce logical, practical and safe regulations to serve their local needs. Providing the province this authority is particularly disconcerting in light of the province's inability to provide adequate environmental safeguards, standards, research studies or enforcement personnel to assure us that our environment is being adequately protected. We see provincial funding to local conservation authorities eliminated, fish and wildlife protection and supervision in the Ministry of Natural Resources cut or radically reduced and Ministry of the Environment resources stretched to the point that no one can respond to or enforce existing regulations.

We are deeply concerned with the Ministry of Agriculture's quest for unfettered growth in livestock production when there is a decided lack of scientific data or research to suggest that this growth will not have a long-term negative environmental impact. We are concerned that the present level of livestock output is hurting the environment. Our concern with the Ministry of Agriculture's support for continued livestock expansion without the necessary concrete studies to provide Ontario residents the assurance and comfort that their environment will not be compromised is extremely worrisome. This feeling is even more compelling when you look at the skimpy, botched or downright misleading studies that the Ministry of the Environment and Ministry of Agriculture have provided to identify sources of faecal coliform in our water.

The local municipal residents feel strongly that they should have the right to regulate their own municipal bylaws. Over 75% of the Ashfield township residents, when asked, supported a petition to suspend further expansion of intensive livestock production facilities until research could be undertaken to determine what ramifications further expansion would have on the environment. The petition was supported despite the fact the petition clearly indicated that the cost to undertake the necessary research study would be entirely funded by the township residents, at an estimated cost of \$80,000 to \$100,000, and this cost would result in \$114 being paid by each ratepayer. These people felt they needed to have a hand in creating bylaws that would regulate agricultural production in their area. The ratepayers were willing to pay a significant amount of money, \$114 each, to support this desire. That's a strong indication that municipal residents want and believe they deserve the right to create bylaws which regulate agriculture at the local level.

The third thing is that we're concerned that this farming and food production legislation will prevent or obscure the ability to create and enforce existing or future environmental laws.

In summary, our concerns are based on the fact that we already have existing water quality problems, an un-

healthy situation, in our area. We're concerned that there's a great potential for this to grow if intensive livestock production is allowed to expand in an unregulated manner. We are concerned about the definition of "normal farm practice" and believe it's necessary to include reference to the environment in the definition of "normal farm practice." We are concerned about the removal of a local municipality's ability to create and enforce bylaws that regulate farming in their area. We're concerned about the potential for the bill to obscure or preclude the ability to create and enforce existing or future environmental laws.

The Chair: Thank you. We have two minutes for questioning from each caucus. We'll begin with Ms Churley from the NDP caucus.

Ms Churley: Thank you for your presentation, as I sit here trying to separate out fact from fiction, which I think all legislators need to do when we have the responsibility to make laws. In the previous presentation, I was told I should do that. I want to be clear from your presentation, and I know it's a very short time, what evidence you have. There is a problem and we all know that; the evidence is there. There isn't the evidence we need yet to know for sure exactly what the problem is, and there needs to be more intensive study done. Before that happens, there should be — what? I don't know. We should stop the expansion of intensive livestock production for a while until we know more? What's your recommendation around that?

Mr Frayne: If I might answer that, Madam Chair, that's a very good question. There's actually a sheet of paper at the back of our handout here. It's not the minutes of the meeting, but it's a report on a meeting of the Perth County Pork Producers' Association that was held in late 1997. Their guest speaker was Pat Lynch, one of the most distinguished agronomists in the province and probably in the country. At that meeting, Pat Lynch made the comment that there are many questions and many answers that have got to be looked into about these nutrient management plans.

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If I may quote one part that Mr Lynch said near the end of the meeting: "Pat also made the comment that court battles should be dragged on for years and years so researchers have time to come up with answers backed up by research data."

The problem we have in this province right now — it's no coincidence that municipalities right now are struggling in an attempt, through bylaws, to regulate the rapid growth of the intensive livestock sector. They are searching for answers. OMAFRA has not been doing their homework. The different commodities associations have not done their homework. I've heard today that they have, but the reality is that they have not.

The poor old municipal politicians in this province are struggling with this issue. When Bill 146 says that they may take that responsibility away from them, who is going to set the guidelines here? Already, because of the situation, the local municipal politicians have found to their dismay that there are no answers. The research is

ongoing. At the PROTECT meetings, the hog producers association stood there and told us to give them time, and we recognize that it will take time. But Bill 146, by taking away the democratic rights of people through their elected people at the municipal level, denies them the basic right to have input into this.

The general feeling in the rural population is, is it really a coincidence that Bill 146 is being introduced by the government at this time, at the very same time that the intensive livestock sector of this province is under extreme scrutiny, and for very good reasons?

Mr Fischer from AGCare —

The Chair: I'm sorry, we only have a brief time for questions and answers. We'll move now to Mrs Johns from the government caucus.

Mrs Helen Johns (Huron): Good morning, Huron county. I'd like to address my question to Mr Hogan because he's a small farmer in Huron county, probably not so small, I guess, but I think in Ms Churley's definition.

Mr Hogan: It depends on whose definition you use.

Mrs Johns: That's right. In Ms Churley's definition that might be the case.

I have been watching this and I'm concerned. We have an environmental problem in Huron county. There's no question about that. We have two issues: First of all, we're concerned about intensive livestock, and your group is specifically concerned about intensive livestock; second, we're concerned that our lake is getting more polluted and it's affecting our tourist industry all the time.

In our community, because you people have brought to the forefront these problems, we have come together in a group and we're looking at exactly who is trying to pollute in the lake. Your group, plus a number of different groups, have gone together to try and analyse through labs, I think, the *E coli* that's in the lake. I was quite surprised today when I heard that 90-some per cent of the pollution may well be coming from animals.

It's my understanding that we have a municipal problem. We have people in sandy soil without proper sewer system; we have towns that don't have the proper septic systems; we have agricultural people who aren't following the rules; we have cottagers without septic tanks. I understand those results may prove we have more of a balance of pollution in the lake than that. I know our results have been stopped a couple of times from coming out. I'm wondering if you at PROTECT know what the results are in those lake studies and if it is true that there's a balance from a number of different sources, along, I suspect, with Perth farmers and Perth pollution from their municipalities also.

Mr Hogan: No, we don't know the results of those tests at this point. They probably shouldn't be published until a full year of results is tabulated, because the levels will vary widely from month to month depending on — you're saying the cottagers contribute to some of the pollution, and I'm sure they do, so in the July-August period and maybe September, you tend to maybe see more human pollution, but if they were to do the test in May, June, July, you'd tend to see more from the livestock sector. And I don't think Mark said that 99% of the

pollution was from livestock; he just said that's 99% of the manure produced.

Mrs Johns: Oh, sorry, I misunderstood that. Sorry, Mark.

Mr Sully: It is a mathematical impossibility to have the elevated faecal coliform and nitrate-loading levels in the overall watershed — and it doesn't matter whether you're measuring rivers, streams, groundwater, anywhere — it's a mathematical impossibility to have that or even a large portion of it — a small portion of that is attributable to people. It's just a scientific, mathematical impossibility. Unfortunately, we're led to believe — and that's why it says "skimpy, botched and downright misleading." The information that has been provided and done to date has been so messed up by the groups that were involved in putting it together that they just twisted it around where it absolutely doesn't make any sense. I'd be happy to go through it, but it would take a while for me to show that.

Mr Hoy: Thank you very much for your presentation. I want to make something clear, at least in my view, on the question of small or large farms, or medium-sized or whatever they might be.

Ms Churley: Good. Let's clear this up.

Mr Hoy: No one, small, medium, or large, has the right to pollute, so we need to encompass a set of guidelines and laws that will affect everyone equally in that regard to pollution. I want to make that clear from my perspective.

One of the occurrences here is that Ontario in the main, across the agricultural sector, is producing a quality product. People around the world like our products; Ontario people like our products. I mean that in every sense, not just livestock. But now what we need to do in this evolution of agriculture and the evolution of laws to deal with that evolution of agriculture is to provide quality farm practices. I think there has been an evolution of agriculture, about which you are very concerned, and I appreciate everything you've said in your brief, but as legislators we're also trying to evolve along with them and provide the right laws and the right mechanisms to protect you and everyone in Ontario, farm and non-farm alike.

The statistics you gave are quite dramatic. You may have been in the room when I raised a question. I sympathize with you and am concerned about conservation authorities, the Ministry of Natural Resources and in particular the Ministry of the Environment having their funding reduced. We can make all kinds of laws, but if we have no enforcement, it's not going to provide you or me with what we want to see in Ontario. Thank you for your presentation.

The Chair: On behalf of all the members of the committee, I would like to thank you for coming today and for bringing your ideas forward as we consider this bill.

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ONTARIO FRUIT AND VEGETABLE GROWERS' ASSOCIATION

The Chair: I call upon representatives of the Ontario Fruit and Vegetable Growers' Association. Good morn-

ing, and welcome. I'm sure you know you have 20 minutes for presentation time, which may be your presentation or you may allow time for questions. As you begin, please introduce yourselves for the Hansard record.

Mr Alfred Koop: I'm Alfred Koop, first vice-president of OFVGA. I'm a grape grower in the Niagara Peninsula, growing juice and fresh grapes and wine grapes.

Mr Michael Mazur: Michael Mazur, executive secretary of the Ontario Fruit and Vegetable Growers' Association here in Guelph.

Mr Koop: At the outset, I'd like to make it clear that we are on side on this bill. We work together with the OFA and have a member on their board of directors. I would make that very clear at the beginning.

You have the paper in front of you. I'll just read through that and then we'll open it up for questions. I think that will leave a fair amount of time for questions.

The Ontario Fruit and Vegetable Growers' Association represents the interests of approximately 8,400 fruit, vegetable, greenhouse vegetable producers and industry members in Ontario. It is the intent of our association to share with you the need for a workable piece of legislation that allows producers to produce fruits, vegetables and other value added products that use normal farm practices without undue pressure through conflicts that arise from nuisance complaints.

The conflicts that have arisen in the past revolve around changes in demographics of the rural community and by a lack of understanding by individuals of normal agricultural practices. The farm community has attempted to deal with these issues and continually makes every effort to accommodate and assist in the resolution of complaints and adopt best management practices to alleviate concerns wherever and whenever possible.

On the bylaw development: Appropriate bylaws under certain guidelines must be consistent across all municipalities in order to maintain a level playing field between all producers regardless of location. Bylaws should not be restrictive to current and/or future types of farm enterprises. In order to remain competitive, producers will look at expansion and/or value added activities.

Water taking: The current requirement for the taking of water is essential in order to maintain appropriate riparian rights for food production needs and residential requirements. An order of preference for the taking of water should be considered. Essential needs must be looked after prior to recreational needs.

Vandalism and trespass: Regulations that ensure safe properties and farm practices cannot be overemphasized in this regard.

Farm property protection: Discharge of firearms and other devices for property protection from nuisance animals and other predators, such as birds, must be allowed. These should be operated under normal conditions and at reasonable times of the day.

Farm machinery: Agricultural operations are at the vagaries of weather, and at times must operate various equipment at off-normal hours for cultivation, planting,

spraying or harvesting activities. These must be understood in order to maintain sound production practices.

Light and ventilation: For some operations these practices are essential for production purposes, such as greenhouse operations and icewine-making during evening and early morning hours. Those are new things that have come along as far as light goes. People are operating at night under high-powered lights in icewine-making and there is a problem of lights flashing in neighbours' houses and these sort of things.

Solutions: Conflicts will undoubtedly arise. It will be important for all parties concerned to understand a farm operation and its normal production activities.

(1) Encourage all producers to undertake the environmental farm plan workshops, utilize best production and management practices wherever possible, establish a code of production practice for various farm enterprises that would identify activities and their impacts to the environment and neighbouring residents.

(2) Encourage municipalities and real estate agents to prepare a demographic profile of their region that would apprise residents or future residents of the agricultural land base present in the area in order to understand the interaction that will take place.

(3) Encourage an educational approach before enforcement.

(4) Maintain the farm practices tribunal for dispute resolutions.

I would open it up for questions.

The Chair: Thank you very much. We have about five minutes each caucus for questioning. We'll begin with the government caucus.

Mr Hardeman: Thank you for your presentation. We've heard a lot of comments made about whether the act gives farmers the right to pollute. The minister has said many times, of course, that it doesn't and that all the present legislation that is in place to prevent that from happening will stay in place. This act does nothing to override any of those acts.

In your presentation you speak of nuisance complaints. From the fruit and vegetable growers' position, I'd like to know, if you were spraying an orchard or spraying your vineyards with a chemical and that chemical was to leave your property and contaminate someone on the neighbouring property, would you consider that a nuisance or would you consider that an environmental problem that was still prosecutable?

Mr Koop: I don't know if I would see it as either. It's a matter that it has to happen. If you say that's a nuisance — it just is part of the fact of working on a farm. We'd like to see common sense also prevail in some of this.

Mr Hardeman: I'll just clarify it a little. If I was the neighbour, whether I am another farmer or an urban-type resident who lives out in the country, if the overspray from your vineyards contaminated the air I breathe, as a farmer, would you consider that as a nuisance or would you consider that you or the farmer spraying had to do something about that so it didn't happen? Do you think

this bill gives you the right to overspray into someone else's property?

Mr Koop: No, no more than it did.

Mr Hardeman: I think it's rather important. We hear a lot of discussion. The previous presenters said this bill somehow does more for intensive livestock operations or intensive farming than the present legislation does. I don't see it doing that. I was wondering whether you felt it does.

Mr Koop: I don't either. I don't see that being said in this legislation. It's still the best management practices to be the underlying factor. That's where we're at, I think.

Mr Danford: Thank you for your presentation, Mr Koop. I have a couple of comments based on your presentation. You spoke about bylaw development. Certainly through the process, there was a presentation about a year ago presented to rural Ontario municipalities at which about 800 participants were there who represented the province. From the floor that day came the comment that this should be dealt with as a provincial interest. When we talk about formulating bylaws, they were receptive to the fact — in fact wanted it to be in place — that they would have a place to go to try and implement new bylaws and keep it in respect of farming and rural in general.

You also talked about remaining competitive for the future. Do you feel that the fact that we've implemented the word "acceptable," which tries to address that sort of thing, rather than take the present practices that are in place now, accommodates and provides a balance for both rural and agricultural interests?

Mr Koop: I think we're okay with that. We've recognized that it needed to be addressed, the municipality put of it, and we feel that it is in this bill.

Mr Danford: That was the feeling of all the stakeholder groups we worked with, that there had to be that allowance. The present bill didn't allow for that, for the future, so we could accommodate that sort of thing and update it.

Mr Ted Chudleigh (Halton North): Thanks to the OF&VGA for their report today. I believe the OF&VGA is one of the oldest organizations in Ontario, well over 100 years, perhaps 130. I can remember former presidents saying that the organization does not represent farmers that break the law, and I would expect that you also would not represent farmers who pollute or break pollution laws. Given that pollution has been of concern and this bill has been maligned perhaps as giving the right to pollute, has the OF&VGA's policy on representing farmers who break pollution laws or who would fail to live up to their responsibilities in environmental protection changed, or would you do what you could through peer pressure and otherwise, or would this bill strengthen your ability to bring those farmers to heel?

Mr Koop: I think our policy was always the same. Our idea is that the farmer is responsible with his actions. That doesn't change. The best management practices are still the underlying factor, and they do not allow him to pollute. We see in the pesticide end of it a tremendous reduction in pesticide use. That's a fact.

Mr Chudleigh: And does this legislation help you in that area?

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Mr Koop: I think it covers off the ones we deal with. The light is one that's coming on, and the noise was already part of previous ones, which we used in the bird-bangers. We did win that in the Niagara area, where bangers were allowed if they were properly used. They were asked to put them in certain directions, but we were able to work out solutions and I think that has worked out okay.

The Chair: We'll go on to Mr Hoy. Perhaps you can continue that in response to Mr Hoy's questions.

Mr Hoy: What I would do, Madam Chair, is allow them to continue to respond. It may be my question.

Mr Mazur: Thank you, Pat. Further to Mr Chudleigh's comments with regard to representing producers, as Alfred mentioned in his response, is that if a producer is in violation of an act, whether it's within this guideline or other acts which we have recognized almost supersede this, such as the Environmental Protection Act or the Ontario Water Resources Act, we will inform our producers if they are in violation of, say, the water resources act. There are instances that we are dealing with currently, and we encourage our producers to abide by those pieces of legislation that do supersede even this one.

Mr Hoy: Do you think this bill could be enhanced and improved upon if it stated that an elected member of council from the Rural Ontario Municipal Association was part of the normal farm practices board?

Mr Mazur: Personally, I would think so. We don't have a policy on that per se as an association, but if we're looking at consistency of bylaw development across the province so that there isn't any unfair advantage to one producer in one county over another producer, I think that would enhance it, yes.

Mr Hoy: The education of the non-farm community has been mentioned in many briefs. Who should be responsible for providing that information? Should it be the farm organizations of Ontario? Should it be the government?

Mr Koop: I think we have different organizations that are doing a good job: OAFE. You're talking about education, right?

Mr Hoy: Yes.

Mr Koop: I think we have a fairly good underlying basis for this. The OFA also has their hands in different organizations. Do you know of some more organizations?

Mr Mazur: It's almost incumbent upon all of us to educate each other in why we do things or what we're doing. I think it's important for us to understand one another rather than from a confrontational perspective; it's more of a cooperative, understanding perspective or approach.

Mr Hoy: What I'm thinking of here is, why does a farmer go out early in the morning to do a certain task and then he's not seen from 10 o'clock on? It's because he's into the heat of the day and that particular application of whatever he's doing doesn't work well. The non-farm

resident might just say, "He's doing that, driving around my home here at 5 o'clock or 6 o'clock in the morning, to annoy me," but there is a reason for that, and there are many instances I can think of, pea harvesting, for example. Why does it occur when it does? There's an answer for all of that. Perhaps there's a need to inform the non-farming community that the farmer doesn't do these things just because he takes a whim to do it at that time of day. That's the point I meant, in terms of education in that regard.

Mr Mazur: Agriculture has invested quite heavily in terms of groups like AGCare, OAFE, and that's coming out of our organization's pockets or producers' pockets to fund these activities to inform people what's happening. They've done an excellent job. We try to do our part. How much more do you want us to do as the agriculture community, when you have pressures that are constantly being put on by outside competition from a global economy that may not have legislation such as we have here that impacts on their bottom line? I don't want you to get the impression that we're skirting the issue, but it's incumbent upon everybody to understand one another.

Mr Hoy: Perhaps the message isn't being heard.

Ms Churley: Thank you very much for your presentation. When I was the Minister of Consumer and Commercial Relations, I was responsible for the alcohol industry and therefore dealt quite a lot with the grape growers. I see you represent them. I certainly know that to produce icewine your members have to get up very early, at the crack of dawn, to pick those grapes. Thank God, I think we'd all say this year, for the cold snap finally, so we're actually going to have icewine this year.

I wanted to come back to this whole rhetoric that's starting. It seems to me that what's starting to happen today is that there are those who say, "This bill is a licence to pollute" and they're bad somehow, and then all the rest. I don't know, maybe there is a group or two who have said this bill is a licence to pollute. I haven't heard that today. What I am hearing and what I heard before these hearings is real concern from people who live in the area, farmers and others, about the issue you're hearing a lot about today, and that's the large livestock farms.

What I'd like to get at is some way we can step away from that rhetoric that it's either this or that and look at the good parts of the bill and then try to focus on the areas where people are expressing what I believe to be our real concerns. I'm wondering if you would agree with that comment and if you're seeing in the area a very polarized situation, with those who are for and those who are against and there's no common understanding. Are you seeing that at all in your area?

Mr Koop: I couldn't say. Not in the fruit and vegetable end of it. I think we're different from the hog operations. Some will obviously also have hog operations on their farm, on their fruit farm or whatever it may be, but as far as our association specifically is concerned, the parts directly affecting our industry are being addressed and we have other things that aren't included that we are looking forward to. Water-taking, for instance, isn't really

being addressed right now, and we're hoping it can and will be. But as far as what's here is concerned, it seems — I know what you're saying, and that's sort of a side-effect of some of us; some of us are also egg producers and some of these other things. But just speaking on these issues, I don't think we feel we need to get involved in that other discussion.

Ms Churley: A wise decision, I guess. You'll stay out of that one.

Mr Mazur: I think it's important that everyone recognizes that producers are stewards of the land. They drink the water that's adjacent to their house or might be adjacent to their field. They're producing the food and they're probably consuming some of that food they actually produce themselves. We're guided by food safety issues, we're guided by grower certification programs, best management practices, environmental farm plans, probably world-recognized as a first-class initiative that came from Ontario — all to address issues such as water quality, such as potential pollutants and activities that may have some detrimental effect on the environment. I don't think we're second-class to anybody. I think there is a polarization, and I think it's probably because of a lack of understanding or appreciation of what we have recognized worldwide as potential problems, and we're trying to correct those problems here in Ontario as best we can.

The Chair: Gentlemen, on behalf of all the members of the committee, we thank you for coming before us this morning to share your advice on this bill.

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HALTON REGION FEDERATION OF AGRICULTURE

The Chair: I now call upon representatives of the Halton Federation of Agriculture.

Mr Chudleigh: The great Halton Federation of Agriculture.

The Chair: Mr Chudleigh says, "The great Halton Federation of Agriculture." Good morning and welcome.

Mr Jamie Fisher: Thank you very much. This is Harry Brander, our regional OFA representative. My name is Jamie Fisher. I'm the current president of the Halton Federation of Agriculture.

I hope you all have a copy of the handout portion of our presentation. I will be referring to it. There is some background material, especially at the very back of it, that is there for a paperweight or in case you're interested.

Halton's location at the edge of the GTA and next to Hamilton, as shown on the first map, has resulted in significant urban encroachment on agricultural land. While the on-farm population of the region is less than 1%, approximately one half of the land base is still in agricultural use. While it is true that livestock numbers continue to decline in the region, other agricultural industries such as horticulture are on the increase.

This bill should help smooth the way as agriculture continues to evolve into forms that are mostly compatible with our urban neighbours. This bill, especially section 6 on municipal bylaws, goes a long way towards keeping

existing agriculture viable and productive. Section 6 we consider especially important because most complaints from our urban neighbours are directed to government and its enforcement agencies.

Our difficulties are further compounded by the fact that very few of our cities and towns have enforcement people or planners who understand agriculture. This has led to some bizarre bylaws. Most recently, the city of Burlington has produced its new draft zoning bylaw. I'll just give you a couple of quick examples out of it. They are proposing regulating fencing in all areas to urban standards set under their fencing and privacy screen section.

My favourite part is the provisions they've put in against the parking of utility trailers between November 1 and April 30, and then they define utility trailers to include any vehicle designed to be towed by a motor vehicle for the purposes of transporting or storage of goods, material, equipment or livestock.

Our group is often involved in commenting on many municipal initiatives such as this draft bylaw, often with some success. We have, however, noticed that an interesting phenomenon happens when laws are passed. The words take on a life of their own. The intent of the writer is no longer relevant. The assurances and explanations given at the time the laws are passed have little bearing on how they are interpreted.

Although this section deals with municipal bylaws, I am going to try to illustrate this point with a section from Bill 146 where the intent could be twisted. In your handout, there is a page with an example at the top of it and it refers to subsection 6(17), "Application." We've pointed out two interpretations of the same words. Clearly the one interpretation is not the intent of the bylaw, and at some point a party not happy with the decision may appeal based on this interpretation of words where the intent was clear, or at least I think is clear to all of us.

When you have hundreds of pages and thousands of words, such as this bylaw — and there are lots more of those within our region — the interpretation and re-interpretation can change significantly. This bill, in our view, should help to balance the agricultural business perspective against the urban-based planning we find in our region.

On the page of the handout entitled Concerns with Bill 146, the one thing we'd like to specifically draw your attention to is our request for change in subsection 6(15), "Factors to Consider." We request that the word "shall" be changed to the word "may" and our rationale is provided. I hope you'll take time to read that section.

In conclusion, I don't want our concerns to detract from our support of the bill. We strongly support this, with hopefully at least one small change. Regardless, we have confidence in your committee and the provincial government to ensure that this is an excellent piece of legislation and that it is soon passed.

The Chair: Thank you very much. We have about three minutes for questioning from each caucus and we'll begin with the Liberal caucus.

Mr Hoy: Good morning and thank you very much for your presentation. I was looking at the sections you were

citing here. Could you help me out here and explain what the fencing bylaw was? Can you do that quickly enough?

Mr Fisher: Sure. In the draft Burlington zoning bylaw what they've done is taken the — we used to have two bylaws, an urban bylaw and a rural bylaw. When they combined the two they applied the fencing requirements for between neighbours, fencing around your pool and that kind of stuff, to the rural areas as well, which limits where you can have solid fences and where you can have farm fences. Your Page wire fence is not a legal fence any more because of the urban component.

We do expect they will listen to us and change this in the final version. It's just an example of things that can happen, and I'm sure there are others that have slipped through here that we haven't got.

Mr Hoy: Could you describe for me the utility trailer one? I'm not certain, first of all why it's there, and then how it applies to you as farmers.

Mr Fisher: Again, it's a similar thing. By defining a utility trailer essentially as encompassing any trailer, it becomes illegal to park your truck trailer on your farm. It becomes illegal to have perhaps a wagon if it's potentially towed by a motor vehicle parked on your farm during the winter months. I doubt if it was the intent to restrict the parking of livestock trailers or farm trailers on a farm, but that is the way the bylaw reads at this present time.

Mr Hoy: Thank you for the explanation.

I am sure the committee will consider your word changes you propose here. "Shall" and "may" do indeed have different meanings.

Prior to my being elected, I talked to a farmer from your area. I think it was maybe in 1987 or 1988. He was concerned about what you show on this map, the urban shadow part. He was concerned that he wouldn't be able to farm any more. He had that general concern over 10 years ago and he was quite worried about it. He didn't know whether he should sell his farm or continue on or make an educated guess that his young son didn't want to farm and therefore it would be a good idea to sell now, or that his son and family members might want to continue. He really was having a problem with this notion in that particular area. So I have heard of the urban shadow effect where you are.

Mr Fisher: We actually find that some types of farming become even more viable, especially the horticultural section and its ability to roadside-market, and the greenhouse sector, and they're both active and growing. I'm sorry, the stats I've provided in the back are based on 1991 statistics, I believe, but you'll see that the greenhouse and horticultural section is quite significant in our region.

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Ms Churley: Thank you for providing the background information. It's really helpful to have. Just following up on Mr Hoy's question, urban sprawl and concerns you might have about that, does the municipal report deal with agricultural land use planning at all?

Mr Fisher: It certainly does.

Ms Churley: Could you just talk a little bit about what direction the bylaws are taking?

Mr Fisher: The bylaw is based on the official plan, and the official plan, as indeed the provincial policy statements, recognizes agriculture as an important land use. Where we start to lose it, though, is through the fact that people who are in the planning department don't know the agricultural business. They come and we talk to them and we try to work things out, but we're often sideswiped by words with legitimate intent, which is why I specifically brought up the example of the intent of laws straying into who knows what. I would say, though, that our region does support the agricultural industry, tries to do it through their plans and their bylaws, at least until the neighbours start complaining and then sometimes the politicians push to have something done or whatever.

Ms Churley: Would that be neighbours who might be complaining, wanting subdivisions? Are you talking more about the nuisance complaints now or about the land use?

Mr Fisher: Whether they're actual nuisances, you can get some very interesting complaints when you have urban neighbours.

Ms Churley: I'll bet.

Mr Fisher: What typically happens with a complaint, especially at a municipal level, is that it goes either to the politician or the bylaw officers. They are trained, the bylaw officers especially — I don't want to say whether politicians are trained or not, but they tend to respond to four or five calls with, "Something's got to be done," and before anybody knows any information about it, they've started a process rolling that can involve considerable expense not just to the farmers but to their own staff and their part in it. Some of them are humorous if you're not involved, but to the farmer who is involved the process itself to get exonerated from doing something he's done every other year on his farm is ridiculous.

Mr Chudleigh: Thank you for your presentation. I know you're here representing the Halton Region Federation of Agriculture, but you yourself perhaps farm in a particularly interesting section of the county in that you are well south in that shaded area and you're impacted by a very urban municipality of Burlington. You're also impacted by the conservation authority and the Niagara Escarpment Commission and have that experience in your background.

Talking about the utility trailers, which may include corn hoppers, and I expect corn is harvested in your area pretty much in that November-December area, and the other influences those areas have on your farm personally, do you find that municipalities, once you find something such as you've mentioned in the draft bylaw, are responsive to your inputs? I know you have the HAC, the Halton Agricultural Committee, and you might want to comment on that as to how effective that has been when dealing with the region of Halton and the municipalities within that region. Do they listen?

Mr Fisher: I would say they certainly listen. As with all politicians, they have to balance many interests, many conflicting views, and they do their best. I don't disagree

with the intent of a lot of what they're trying to do. It's the fallout from it that tends to hurt in a lot of cases. We certainly do have our areas where we disagree, but I would say we are listened to, and as you mentioned, the HAC is composed of agricultural members who advise the region. It is a very effective voice, and I don't know —

Mr Chudleigh: Would those comments relate to the conservation authority and the Niagara Escarpment Commission as well?

Mr Fisher: The conservation authority and the Niagara Escarpment Commission both have regulatory powers that, in my opinion, this act will not likely affect in any way. We are considerably less successful in having our comments heard at both of those agencies. There is a lot of frustration with the same sorts of things. We all support the protection of the Niagara Escarpment Commission — the Niagara Escarpment, not necessarily the commission — but implementing a program, it sometimes seems like they're alienating the very people they need to make the program work.

The Chair: Gentlemen, thank you very much for coming before us. On behalf of all the members of the committee, we appreciate your input. You're right that we're not trained. The only thing that makes politicians of all parties involved is that we care about what happens to our citizens in the communities of this province. Thank you for your advice on how to do things better. It's appreciated.

Colleagues, that's our last presentation of the morning. We'll reconvene at 1:20 this afternoon. At this point the committee is recessed.

The committee recessed from 1207 to 1326.

HURON COUNTY FEDERATION OF AGRICULTURE

The Chair: Good afternoon, everyone. We have had some excellent presentations in the last couple of days and this morning, and we now look forward to a presentation from the Huron County Federation of Agriculture. Good afternoon, gentlemen. Please make yourselves comfortable.

Mr Evert Ridder: My name is Evert Ridder. I represent the Huron County Federation of Agriculture.

Mr Victor Roland: I'm Victor Roland, also representing the Huron County Federation of Agriculture.

Mr Ridder: I'd like to thank you for the opportunity to address this committee. I would like to state first that we did not go into too many details regarding statistics of agriculture since the Ontario Federation of Agriculture has made a presentation to that effect already and we fully agree with all the details in that presentation. We also would like to say that we 100% support the Ontario Federation of Agriculture in that respect. We fully agree with their perspective on the act.

On behalf of 2,200 members of the Huron county federation I want to thank you for the opportunity to address this committee regarding the Farming and Food Production Protection Act. The Huron county federation has been

actively involved in the consultation process to develop this new legislation. In our assessment of the Farming and Food Production Protection Act, the proposed legislation incorporates many of the enhancements the farm community has sought through our federation.

The Farm Practices Protection Board has a solid track record in dealing with nuisance complaints in a timely, cost-effective manner. Annually, of the more than 700 agriculturally related complaints received by either the Ministry of Environment and Energy or the Ministry of Agriculture, Food and Rural Affairs, an average of only two have reached the Farm Practices Protection Board. The overwhelming majority are resolved through mediation and education by ministry staff.

The proposed Farming and Food Production Protection Act will allow the same low-cost way of problem solving of agricultural disturbances such as noise, odour, dust, plus now light, vibration, smoke and flies. It will also allow a low-cost way of dealing with municipal bylaws that restrict normal farming practices.

This will allow farmers to concentrate on the business of farming and feeding the nation rather than having to worry about costly litigation. There is also room for changes to be made by the minister as new technology is developed or new crops and livestock species are brought into production without changing the whole legislation.

We feel very strongly that this act does not provide farmers with a licence to pollute, nor should it. It simply protects farmers against nuisance court actions under the common law of nuisance. In order to be eligible for nuisance protection, the farmer cannot be in violation of the Environmental Protection Act, the Ontario Water Resources Act, the Pesticides Act or the Health Protection and Promotion Act.

However, we do have some concern with subsection 3(1) regarding the appointment of the members of the Farm Practices Protection Board by the minister. We believe this should be done in consultation with farm organizations.

We appreciate the way we have been able to give input into the development of the Farming and Food Production Protection Act. Farm organizations need to be consulted and considered as sources of useful information for changes in the act, should the need for those arise.

This morning there were also some questions regarding large or small farms. My personal opinion on that is that we see large corporations amalgamate and governments amalgamate. They want counties or municipalities to amalgamate for cost-effectiveness. The consumer shops in large stores, very much so. They buy not in small stores any more; they all flock to Loblaws, Wal-Mart and so on, yet they expect the farm community to stay in the 1970s. I don't think that's possible any more. In order to compete we have to expand and get larger to be cost-efficient.

Those are some of the comments I have to make. Thank you for allowing us the opportunity to address this act.

The Chair: You have given us about four minutes each per caucus for questions. We'll begin with Ms Churley from the NDP caucus.

Ms Churley: Thank you for your presentation. I'd just like to follow up with you on your last comment because there has been a focus today on the environmental concerns and I think that's partly because of a couple of the presentations.

When we talk about the issue around small versus large, I'm not sure if for me that is the issue. The politics of all of that, trying to save the family farm, I think is to some extent a separate issue. What I'm hearing is the concern about what has happened in parts of Europe and the United States when the huge, particularly pig, farms start to be set up in I suppose not a well-enough-regulated way and there have been serious problems, with water in particular.

That's what I'm hearing more today, that there is concern about what the runoff and other problems of those big farms could have on communities, both small and large farmers. It affects the community no matter what size your farm, and I'm wondering what your comments are on that.

Mr Ridder: My comments on that would be that in Huron county we have quite a bit of problems with perception. If you ask for facts, they're pretty hard to find. As far as that goes, the Huron County Federation of Agriculture has initiated a coalition of all the farm commodity groups in the county to work on this under the same program as the provincial one does, whereby all farm commodity groups try to look at issues and, in cooperation with the municipalities, try to find solutions based on scientific facts rather than on emotion. A lot of groups go on the Internet and try to find whatever suits their purpose and that's what they call facts.

Ms Churley: So for you personally, from the information you have, this is not a concern of yours. You believe that what happened — and there is factual information about what happened in Europe and some parts of the States. What I think I hear you saying is that you don't think this is starting to happen here and you don't believe that's going to be a problem here.

Mr Ridder: We are aware those things can happen. What we are trying to do is take prevention so they do not happen. What I hear quite often is that a large operation is a dangerous operation. I like to differ from that. I believe a large operation is quite often better run and cannot afford to make mistakes environmentally because of the impact on the environment. The operators quite often are better managers than the small operator. There are times, for instance, if you spread manure and you get four inches of rain all of a sudden, that can have an impact, but that is something that cannot be prevented. Just the same as when a municipality sewage system overflows, it goes somewhere too. You cannot stop that either. Those are facts of nature that we cannot control. I think the large operators take the best possible preventive measures not to do things the way they should not be done.

Mr Hardeman: Thank you very much for your presentation. First of all, I want to commend you. When you started your presentation you suggested that you agree 100% with someone else's presentation. It's not very often

that we can get any two groups to agree 100% on anything, so we commend the Huron County Federation of Agriculture.

Mr Ridder: We try to work together.

Mr Hardeman: Very good. I appreciate that. One question I had was on the issue of the appointments to the board by the minister. You suggested that the act should include the fact that the minister must in consultation with the farm organizations appoint members to the board. Do you feel it's critical that actually is in legislation? Do you feel he would not consult with all parties involved in appointments?

Mr Ridder: In a way I believe that past experience has shown most ministers will do it. The possibility is there, since farmers are a very minor part of society, that you will get a Minister of Agriculture who will not do it. That possibility is there and that's one of the reasons we stressed that point.

Mr Hardeman: Are you suggesting that the appointments should be made by the minister on the recommendation of the farm organizations then, or are you just talking about consultation?

Mr Ridder: I would like to see a recommendation out of farm organizations, but I will stress the consultation part.

Mr Danford: My comments and questions were mostly along the same line as Mr Hardeman's. I think it has been fair to say that, as you've already suggested, ministers have in the past taken those things into consideration and provided some sort of balance. I believe it's fair to say. I have no reason to think that wouldn't continue, quite frankly. But as we all know there are a number of farm organizations, for instance, that could have members placed on this board and there are probably more farm organizations certainly than could allow for everyone to be represented at the board level. We also have to have representation from the rural side of it too. I guess it would be difficult to try and come to some specific formula, perhaps. There has to be some reliance on the minister's judgement, with consultation. I respect that. I haven't seen anything specific that could put up another formula that would guarantee improvement on the makeup of the board.

Mr Ridder: I agree with you there. It's difficult to put it in legislation, but I want to stress the point that it's as long as that consultation is there and that we do talk to each other before we do something. We are working in Huron county at the moment on trying to resolve some of the issues we are facing. A lot of study has to be done. We are getting people together, working together with the municipal authorities. On some of the nutrient management bylaws we have been asked for advice on how to do things. We did not get all our recommendations answered, but there are several areas that have been taken into consideration and it has helped improve the bylaws and make them more acceptable to the farmer and other people in society.

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Mr Chudleigh: There have been a couple of times today when the European problem with hogs has been

mentioned. I think primarily that has taken place in the Netherlands. Of course, the Netherlands is a rather small country. I think it would fit into southwestern Ontario rather easily. They have a population of about 15 million people in that small area and yet are a major exporter of pork and dairy products, which intensively uses the land. They also have a very high water table and a drainage system throughout the country with canals.

None of those situations mirror themselves very exactly to the southwestern Ontario experience and I don't believe that situation could develop in southwestern Ontario. Having had the knowledge and the experience of what happened in the Netherlands probably gives us an opportunity to prevent some of that pollution from occurring in intensive operations here. I think it should be pointed out that the situation is significantly different.

Huron county, I believe, is a fairly major producer of hogs. I'm not sure if our situation is going to cure itself, but over the last number of years, four or five years, we've gone from perhaps six hog processors in the province, and I believe there are two left and one of them is on strike. How much longer we're going to be producing vast numbers of hogs, most of which are being exported to the States right now — but as soon as that market turns around, which it will, that market will dry up. Unless we take some rather serious action, we may find ourselves as a non-hog-producing province, similar to our beef situation. Do you see that as a good thing?

Mr Ridder: I don't see it as a good thing. What I do see happening is if the market dries up for hog production the whole economy will suffer. You will lose jobs all around. If I look at Huron county, 75% of the farm income is derived from livestock production.

Mr Chudleigh: Good point. Thank you.

Mr Hoy: Good afternoon. Thank you for your presentation. I've taken note that you support the Ontario Federation of Agriculture brief.

I too had a line of questioning about your one recommendation, that the minister consult. There are, as you might know, appointments made to many bodies. I'm thinking of one in particular where the minister accepts a list of names from the farm community and from that list he may choose some people. I'm also led to understand that he may send that list back and say, "Give me other names," because their expertise may not follow whatever it is that he might want to appoint them to.

It's not legislated. I think it just makes for a good minister. If anybody wants to be a good minister, consultation is paramount, and of course that would extend through the whole government. I know of examples where lists of names from the farm community given in certain circumstances and then the minister may or may not choose from that particular list, but certainly consultation goes on. I would expect that to continue and would want it to continue.

But to the makeup of the board, we've had other concerns and I would like to ask you your opinion, if you think the Normal Farm Practices Protection Board would

be well served if an elected person from a council was appointed to that board as well.

Mr Ridder: Would you clarify "elected" person?

Mr Hoy: An elected councillor from somewhere in Ontario.

Mr Ridder: A municipal councillor?

Mr Hoy: A municipal councillor, yes.

Mr Ridder: I would have no objection to that. Like I said before, I like to see cooperation of all segments of society so that you can work together, as long as they are appointed for what they know, not who they know.

Mr Hoy: Point well taken. Thank you.

The Chair: Gentlemen, with that, on behalf of the members of the committee, I thank you for coming before us today with your brief and your ideas on this bill. It's appreciated and will be considered.

Mr Ridder: Thanks for the opportunity.

NIAGARA NORTH FEDERATION OF AGRICULTURE

The Chair: I'm now calling upon representatives of the Niagara North Federation of Agriculture. Welcome. Please make yourselves comfortable. You have 20 minutes for presentation. You may use that time for presentation only or you may allow some of that time for questions. Please begin by introducing yourselves for the Hansard record.

Mr Norman Vaughan: All three of us are going to make short presentations, and I'll let them introduce themselves when their turn comes up. I'll start.

Good afternoon, ladies and gentlemen, members of the Legislative Assembly. My name is Norman Vaughan, president of the Niagara North Federation of Agriculture, with a membership of 971 farms. I am here to support this bill and how it will help the Niagara-area farmers.

As you drive down the QEW from Hamilton into Niagara, you notice the Niagara Escarpment to the south. Driving along, you see miles of orchards, grapes, greenhouses and vegetable production — beautiful scenery, lots of rural development. On top of that escarpment is more of the same, along with dairy, beef, hogs, poultry, forests, deer and cash cropping.

We provide the consumer with perfect products, because over the course of years that is what the consumer has demanded, the perfect product. To achieve this, fruit, vegetable, grape and other food farmers have to spray a few extra times to make this extra-perfect product.

Along with this, urban people are moving to rural properties. They also demand the city-in-the-country atmosphere, so we see sports complexes in the middle of the country. They are allowed to have bright lights, make noise and sometimes cause a disturbance to the rural life. We cannot do much about this. On the other hand, if farm animals were making a noise or a farmer was spraying his orchard, they figure that this is not normal farming and complain about it.

We had a case where some urbanites were making loud noises in their backyards on several occasions, yet when

the fruit farmer next door used his bird-banger to protect his crop, they complained and took the farmer to court. As a result, this farmer lost three years of crops due to political anarchy. At the end of the three years all that came out of the whole process was that the farmer could not use a doublejohn bird-banger near this property; he could only use a singlejohn bird-banger, with a single sheet of plywood behind it to act as a noise deflector. This case cost the farmer thousands of dollars, along with many thousands more spent by local farm organizations to help support this farmer. The consumer demands the perfect food and when we try to produce it, the consumer complains. We need this legislation.

Another case was simply flies from a nearby chicken barn. Again it was a case of a city dweller moving to a local town. Sitting along the town line, across the road, was a chicken farm. His crops of bird went out the first of June. The farmer cleaned his barn and had a trucker hauling away the manure. It rained on this operation and it turned really hot with high humidity. The hauler's truck broke down for a couple of days. Result: flies.

This lady across the road complained and tried to take it to court. This caused the farmer great hardship and a lot of stress. The end result was that the farmer was asked to try to clean up his manure a little faster and to deflect the eavestroughs so that the water couldn't get near the manure. Before the case was over, the lady who had complained moved away. We need this bill.

Now I turn our presentation over to our second vice-president.

Mrs Arden Vaughn: Good afternoon, ladies and gentlemen. My name is Arden Vaughn. I'm the second vice-president of the Niagara North Federation of Agriculture. Along with my family, we operate a farm in the city of St Catharines.

I'd like to thank you for allowing us to tell you about the importance that we feel the bill has for Niagara. Due to its unique microclimate, the Niagara region has one of the most diverse agricultural bases in Ontario. With its tender fruit and grape and wine industries, it is one of the most valuable regions in the province. There are currently 16,000 acres of grapes in Niagara, with sales in 1997 of \$38 million. A thousand acres are being planted each year at a minimum cost of \$14,000 an acre. The tender fruit industry in Niagara covers 16,000 to 17,000 acres, with sales of \$40 million.

This intense agricultural activity is occurring in one of the most densely populated regions of Ontario. Herein lies the concerns of Niagara farmers. Population growth in Niagara has led to expanding urban boundaries in both cities and rural communities. This has resulted in fragmentation of farm land and increased the risk of conflict between farmers and their neighbours. These urbanites demand a clean and safe rural environment and often do not fully understand modern farming or what constitutes a normal farm practice. In addition, changing market conditions and farm diversification mean constant changes in products, technology and farm practices. Farmers have demonstrated their commitment to environmental respon-

sibility through the development and support of environmental farm plans and the grower pesticide certification courses. Our family farms grapes, beef cattle, deer, elk and cash crops right on the urban boundary in the city of St Catharines. As one of many fruit growers in this highly urbanized area, we must be ever vigilant of how and when we apply pesticides in our vineyards and orchards, whether it be in a neighbour's backyard or beside our children's school.

1350

I'm sure you have all witnessed the turnaround in our grape industry. Those involved have faced great challenges and feel they have a bright future ahead. This new legislation encourages supportive municipal bylaws that will help these businesses to thrive and be more competitive in the global economy.

Section 6 of the bill says no municipal law can restrict a normal farm practice carried on as part of an agricultural operation. As livestock operators, this will protect us from nuisance complaints of odours, noise, dust, insects etc, but more important, it will protect deer and elk farmers, or what you might call exotic or alternative livestock operators, from municipalities enacting bylaws banning the farming of these animals.

The fastest-growing agricultural sector in Niagara is the greenhouse business. This business has grown by leaps and bounds in the past few years and has the potential for more growth in the future. In Niagara there are 250 acres under glass, with sales of \$130 million. It represents 30% of Ontario production.

I'd like to also speak about agritourism. Although it isn't exactly agriculture, it is another important and expanding area in our rural economy in Niagara. It brings an ever-increasing number of urbanites out to the country, inviting more exposure to everyday farm practices. This movement is educational as well as entertaining and will bring about a greater knowledge and understanding of normal farm practices and how our food is produced. As well, it encourages the farming community to put its best foot forward and be more aware of the environment that we live and work in and to adhere to best management practices.

Mr Ken Durham: Good afternoon, Madam Chair. My name is Ken Durham. I farm down in West Lincoln. I want to talk to you more from a provincial viewpoint across the province rather than just what's happening in my backyard of some 800 acres in dairy farming in my area. I want to talk more generally in an avenue not of protecting farmers but protecting the right we have to farm, and not the right to pollute.

I'm going to start with a little bit of history. In 1987 the Farm Practices Protection Act was proclaimed, and it enabled a board to inquire into and make orders related to odours, noise and dust for complaints against farmers for nuisances. Prior to 1987, another group, called the Farm Pollution Advisory Committee, advised and assisted the Ministry of the Environment and OMAFRA as to a "normal farming practice" as being exempt from sections of the Environmental Protection Act and some other acts.

Since 1987, the Farm Pollution Advisory Committee's advice has been obtained in situations only involving water pollution. In the protocol of how to handle these types of things dated July 1989, handling noise, odour and dust, "the FPAC will continue to advise the Ministry of Environment with respect to livestock-related water problems." Further, "It is mandatory that the FPAC's advice be obtained prior" — and I want to underline that word for you — "to issuing a control order or laying any charge against a farmer relating to pollution." You can refer back to government procedure F-11, dated April 1994.

On April 1, 1996, the Minister of Environment concluded that FPAC's mandate was considered fulfilled and sunsetted the committee. The minister stated, "FPAC's advice and guidance was helpful," but disbanded that committee. These water-related problems have not disappeared as of April 1996, and I'm sure you've heard that this morning. If you just look at any reports and newspaper articles since 1986, we still have the same problems. However, farmers have no "water-related" and "normal farming practice" protection. MOE has no "advice" or helpful guidance.

This farm peer committee was very beneficial in resolving water issues for the Ministry of Environment and OMAFRA, and I suggest that it must be either incorporated into this new legislation or reinstated separately, whichever the government sees fit.

The public and the farmers in Ontario need a farm peer committee, like an FPAC or the protection board, any type of related committee, to help protect both the farmers and the general public. I sat on that committee so I know what we did. I know how the situations were resolved for the farmers in Ontario. It was quite beneficial to the district MOE offices to define for them the words "normal farming practice."

I'm talking about water, not noise, odour, dust, as in the previous act, or any vibrations or light and so on that we're considering in the new act. Water is forgotten about. When we farm, we're out in the environment and dealing with water. We need to include that.

Any new legislation, such as we're considering now, should have this included in the act or some provision by the subcommittee to address water-related problems. As previous presenters said, if it rains three inches it may be a problem but it could be considered a normal farming practice, but if it didn't rain it's not a normal farming practice. I thank you for your attention today.

The Chair: Thank you very much. That gives us two minutes per caucus for questioning. We begin with the government caucus.

Mr Danford: Thank you for your presentation. As to the examples Mr Vaughan started off with, we've certainly heard other similar examples that have happened in the past. I was interested more in the point that you said it had been dealt with in the courts and the decisions had come from there, and while they were somewhat satisfactory, or whatever the viewpoint is on that, they had come from the courts.

Given that the Normal Farm Practices Protection Board is made up of rural people, basically, who are there for their expertise, understanding rural concerns and issues, would you feel comfortable with the decisions they could make if it had been dealt with by that board rather than going to the court system? What sort of difference would you see there? How would you assess that?

Mr Vaughan: It depends on what body you're talking about, who all is in that. If it's farmers and municipal town people, I'd see no problem with that. They could work together and come up with some kind of solution, yes.

Mr Danford: It certainly could be a balance of both. As Mr Hoy has mentioned and as has been mentioned earlier in our meetings, there has been the opportunity for rural elected officials, even from ROMA involved with councils, to be there, because they also have knowledge of providing a balance in rural communities. It's certainly intended that even if we expand the board for this new act, that would be part of that expansion as well. So you would feel comfortable that they would have the knowledge and the expertise to deal with the situation as you just presented it?

1400

Mr Vaughan: The one thing I talked about was the bird-bangers. That's the one that went to court. I don't know if you remember the Saunders case down in Niagara. That cost thousands of dollars. The end result was not an awful lot. The farmer just had to get a deflector and go from a doublejohn to a singlejohn bird-banger. I don't know if you know bird-bangers that much or not.

Mr Danford: I'm familiar with them. I'm involved in that too.

Mr Vaughan: He could use these doublejohn bird-bangers on the rest of the farm. Actually, that whole thing — people were stumbling over themselves trying to take the farmer to court, and then when they found out they had gone too far, they tried to backtrack and make it look good. That's why it took three years.

Mr Danford: But given that the board could have made a decision whether it was normal for that area and normal farm practice to continue your business, they could have made that decision fairly easily, if I could use that word, and perhaps saved a lot of time and effort and dollars too.

Mr Vaughan: In a lot of cases that could be done.

Mr Hoy: Good afternoon. I appreciate your presentation. In the Legislature, I mentioned bird-bangers during one of my speeches, and I daresay I was asked more questions about that particular phrase than anything else I've ever said in the House. I was relating to the fact that when there were complaints about them, and I recall them some years ago, the farmers worked very hard to coexist with their neighbours. I stand to be corrected here, but I think there was some technology change where these guns would point and move and not be stationary. By and large, farmers try to get along with their neighbours. Most of them are very courteous. However, there are some who are not, and that's why we need law.

I took particular interest in your comments about the relationship with the Ministry of the Environment. Water is a growing issue throughout Ontario, not only in regard to Bill 146 but in other matters as well. In my communities people, for some reason, want to move away from well water — not that they feel it's bad, but they want water from the lake. I think part of it is that they feel they can acquire unlimited amounts of water that way as opposed to taking well water. As well, they know that in my area wells are about 110 or 120 feet deep and it costs \$10,000, \$15,000 to put them in; they also require a lot of maintenance over the years. For some reason, people seem to want lake water or something that comes out of a larger municipality. Water is truly an emerging issue in many ways, and I appreciate your comments on what you mentioned about the environment.

Mr Durham: I was referring to the water issue mainly from a pollution standpoint and not supply. In the past what the province has done — and I've seen what's happened — is to try and stop any pollution. If there's any way to feasibly get a farmer to get the cattle out of the creek, we would do that and educate the farmer to do that. But there's nothing out there now except that a ministry officer comes and says: "I've seen the cow in the creek. Here's the fine. Appear at court." There is no legislative way of any peer farmers going out there and saying: "We don't do it this way. Put up a small fence and it'll work better." That was the relationship. I wasn't really speaking to irrigation by water and things like that. That's a very big issue; I understand that.

Ms Churley: Thank you for your presentation. I wanted to follow up as well on your comments about water. I know you made a recommendation already, but I believe it is an important area for the government to address and it can be done outside this bill if amendments aren't made to deal with it within the scope of the bill.

One of the things our government did, and I know it was a very small piece, was bring in the CURB program, the Clean Up Rural Beaches program. I realize it was just a beginning, but there was a program in place that was partly educational and, partly, there was some teeth to it. That's now gone and I'm wondering if you would recommend bringing something like that back or something similar, at least to get it going again.

Mr Vaughan: I'd like to answer that because I live along the Welland River, or the Chippewa Creek, and there is a program in effect now; I think it's a federal program. You see, the Welland River, which I have my farm along, is also used as a reservoir by Ontario Hydro. They lower and raise the level of that river by as much as two feet a day, and the result is it's killed all the vegetation along the side so that all the shores are eroding. My farm is a pilot project this year with the conservation authority and the Ministry of Natural Resources, and we're going to plant trees along the side to try and stop — I have quite a steep bank and I have major soil erosion. The whole bank has fallen in the creek. I've lost in the past 30 years, I'd say, 12 feet of shoreline to the river. So they're going to try and restore this with natural

vegetation and shrubs like that. I've donated about 100 feet of the property along the river and we're going to try and stop the erosion. That's just a test project. So there are programs out, but there needs to be more.

Ms Churley: There needs to be more.

Mr Vaughan: The septic systems too. The CURB program took in the farmers, but also along that Welland River there are 6,500 urban homes. Over 25% of them have no septic beds and another 25% are leaking.

Ms Churley: So it's a whole combination.

Mr Vaughan: It's a whole combination, and when they come out with new programs, they have to take in septic beds.

Ms Churley: Not piecemeal, but they have to look at the whole thing.

Mr Vaughan: They have to take in everything.

The Chair: On behalf of all the members of the committee, I thank you for coming before us this afternoon with your presentation.

LIEVEN GEVAERT

The Chair: Calling now Mr Lieven Gevaert. I hope I've pronounced your name correctly. You'll correct me if I'm wrong, I'm sure. Welcome.

Mr Lieven Gevaert: Thank you, Madam Chairman. I commend you. You pronounced my name almost fully correct. The first name, right on the money; the last name is Gevaert, but I appreciate you did a good job.

Members of the legislative committee and ladies and gentlemen, my name is Lieven Gevaert. I live in the north end of Nassagaweya township, which is within the town of Milton, which is within the Halton region. I'm the past president of the Halton Region Federation of Agriculture, prior to Jamie. I'm also a member of the Halton Agricultural Advisory Committee, of which Jamie spoke, and I run a small cash crop operation in north Halton. I'm now kind of betwixt and between because I've become a politician like you are. I'm now a Milton councillor.

I'd like to make comments on four issues: first of all, Bill 146; second, the effect of other legislation on farming operations — I think there have been a number of presentations which have allowed that freedom and I appreciate that; third, a comment or two on the urban shadow; and fourth, perhaps naive, possible solutions.

First of all, I agree with Bill 146. I want to make sure that is clear: I agree with Bill 146. I agree with the presentation that was made by the federation of agriculture and with the presentation that was made by the local Halton federation of agriculture by Jamie. So let me make sure that we understand each other.

1410

I also believe very strongly that this bill is not a licence to pollute in any way, shape or form. This is why I believe very strongly in good farming practices in a similar fashion as good manufacturing practices that are done by industry within this province. After all, farming is an industry if we look at it from that point of view.

Vexatious problems, as illustrated by the previous presenters, can be very time-consuming. Unfortunately, I would like to comment on some areas which are similar in which vexatious problems are extremely time-consuming and at times very health hazardous. So what I want to talk about is by example only, where organizations interfere very strongly with the normal farm practices. I feel that by giving you these examples we may go a little bit further in perhaps not this bill but other bills or regulations to see how we can work together better.

I'm going to give you the three examples: first, part (b) heritage policy and legislation; part (a) conservation authorities; and part (c) Niagara Escarpment.

On the heritage policy and legislation, we of course have received your provincial policy statement, part of which addresses the heritage policy. In that heritage policy, one of the sentences that you quote is that in no way should any bylaws and regulations on natural heritage affect adversely the farming community. I commend you for putting that in there, because sometimes, especially in urban shadow counties, that issue of importance gets lost very much and the farmer ends up taking a very large burden because of proposed bylaws on such things as natural heritage.

I can tell you that the first draft that was made on this natural heritage in Halton, which was made in very good faith by staff — unfortunately, most of those staff don't know anything about farming — gave some very adverse situations to farming. Had it not been for the vigilance of our local federation and the fact that we, the farming community, through the Halton Agricultural Advisory Committee, have a good relationship with the region's governance, this might have gone by, and then six months later we are in real difficulty.

What you have done here, to me, is very correct and how that is interpreted can be very problematic; in other words, from policy to interpretation can sure travel a winding road.

The second item I want to bring up is conservation authorities, specifically regulation 150/90. That is interpreted, unfortunately, by some conservation authorities — not all, let me make that clear. There are conservation authorities in Ontario that have the proper, constructive, let's-resolve-our-problem relationship with their constituents. But some conservation authorities use this regulation to the great disadvantage of the farmer and the farming community in such normal practices as cleaning or shaping ditches that carry water away from a pasture or carry water away from a little dip in the land, and in fact make it extremely difficult to make that happen, to the point of actually giving violations to what farmers consider a normal operating practice so they can continue to farm or pasture on those lands without their becoming a lake.

There are many examples — I'll give you a couple; they're not in here, I'm sorry — where an interpretation for a golf course was made and three persons downstream of the golf course lost the water in their stream, which was a cold water stream which had certain fish in it etc, flora

and fauna. The one farmer lost the ability to board and work with horses, 100%. It took four and a half years for some resolution to be made, and the responsibility lay squarely on the interpretative situation of staff of the conservation authority. This was certainly more than a nuisance. It took this person four and a half years to get back the water that he'd lost because of an interpretation of the conservation authority with regard to a golf course.

Also, applications that are made and that would normally go to a conservation authority are very much applicant-dependent in their resolution rather than application-dependent in their resolution. There seems to be a relationship between the size of the applicant and how easily or how well he can get his application through. Since farmers are perceived to be small applicants, guess what happens to them?

Violation notices, which a conservation authority has a right to do, also seem to be applied more on the actual violator rather than on the violation. Again, this creates difficulties with normal farm operation practices and puts walls in front of a person by being served a violation which, when it's finally resolved, never should have been one.

What I'm trying to say is that if we want to resolve problems, they need to be resolved by the philosophy of both people, of both groups, whatever they are, wanting to resolve them. I was just listening to the last presentation. I think they gave a good example of two groups trying to resolve problems and, by golly, it worked, as opposed to two groups throwing hand grenades at each other.

The last example I want to give you is the Niagara Escarpment Commission. I don't need to elaborate, but I do tell you that farming is far second to anything else. A Do Not Disturb philosophy is the philosophy that at least we farmers on the outside see as the philosophy of the NEC.

These examples are symptomatic of philosophical and regulation implementations that actually affect the farming community and their normal farming practices very severely.

I'll give you one other example. There are certain regulatory bodies that will say, "Hey, we'll let you do this," but they want there to be zero impact. Now, try to define "zero impact" and see what it means. Yet on the other hand, recreational endeavours don't have to follow zero impact on lands controlled by the conservation authorities and it seems to be acceptable.

I'll give you an example. There are recreational things ongoing in one CA where the recreation consistently destroys up to 1,000-year-old little trees that grow up a rock. I'm not going to define the authority; I'm just going to say that's what happens. Yet that's allowed to happen. When a farmer asks for something with respect to a normal farm practice, he gets put through 500 hoops.

The next item I want to cover is local effects. I'm not going to say anything more than that we are lucky in Halton that we have the Halton Agricultural Advisory Committee so that at least there is some educational input

for elected and staff members, which is a very good model to follow.

The last thing is I thought I would be so bold as to offer some solutions. They may be elementary, but I always figure that if you set out a problem and you don't give the solution, you haven't done the job, so let's try it.

On regulatory bodies that are not farmer-user friendly, I wonder whether if they belong to other ministries, there could not be some cross-discussion: "Hey, folks, how do we get a more friendly outlook on implementation, primarily, so that both sides, the regulatory authority and its customer, its client, get help with solving problems?" I also think perhaps ministry staff might be used, because whenever there are ministry staff, it always elevates the importance of any meeting. That's the way the animal works. If ministry staff could facilitate some regulatory body and farm organization meetings at a local level, where issues could be laid on the table, could be clarified, so that the intent of what one side wants and the intent of what the other side wants could kind of become interlocked, that sure would help in getting rid of a lot of vexations and nuisance problems.

In terms of the urban shadow, we have to remain vigilant and sure that official plans are looked at by us as local farmers.

On education there are a couple. I'd like to suggest joint council-local farm organization meetings — and again bring them up to that elevated level by perhaps a ministry official doing the facilitation — on a local area basis so that mutual education and understanding, especially of this bill and what I have heard as they're taking away the opportunity for councillors to make bylaws, would be a good idea to again on a local basis get a common understanding.

1420

The other educational comment I would like to make, which was actually suggested by my colleague, was that since the educational process, governance and so on, is now driven by different generators, it might perhaps be good to have that subtle persuasive power of the provincial government in curriculum policy introduced so that every person starting in the next generation would have the opportunity to understand better through some part of a curriculum, formal piece of education, food farming — the effects, positive, negative, and so on and so forth so that a generation from now every person would have a good understanding of what farming in Ontario and the effects of farming on the food chain etc are like. That education won't bear fruit today, but it sure will bear fruit in 15 years. It's kind of like it'll bring a little reality on a very important segment of Ontario's economic strength to every person in Ontario.

I appreciate very much the time you've given me to come in here and comment and I thank you very much.

The Chair: We have time for just a brief question and answer from each caucus and we'll begin with the Liberal caucus.

Mr Hoy: Good afternoon, Mr Gevaert. I would just make a comment on the last part of your brief. I appreciate everything you said in regard to other legislation and

fitting conservation authorities and others into place in this place called Ontario.

Under education, the joint council-local farm organization meetings etc., I'd hope that would take place and that the ministry could visit certain areas and regions of Ontario. If indeed Bill 146 is to provide some guidance for a municipality, it would only make perfect sense to me that the ministry should visit, just as you have explained here. It'll be interesting to see whether they have the people to do it, but I appreciate everything you've said in your brief and the educational part is one component here that's very important.

Ms Churley: I appreciate your offering solutions at the end. It's always very useful to a committee to get advice like that. Because there is very little time left, I just want to ask you very quickly: You mentioned local planning. How do you see, in probably 10 words or less, the provincial role vis-à-vis the municipality role in terms of interpreting planning? For instance, should the municipality, as the province now says, just have regard for provincial planning or should there be less flexibility to tie the municipality to help protect farm land?

Mr Gevaert: A very complex question. I'll say it in 10 words. One example is what's been done here in natural heritage. There will be no effect on farming. When you go to planning it's a little bit more complex, but whatever policy guidance and information the provincial government can give to actually accentuate the importance of farming practices will be a help. On the other side, the local people must participate on local official plans. So it's a combination of two.

Mr Chudleigh: Lieven, you mentioned earlier in your presentation that this bill doesn't give farmers the right to pollute, and we've heard that several times today and we've heard that as a concern from presenters both in Toronto and Belleville. Could you perhaps indicate what there is in this bill that would give the impression that it might provide the farm community with the right to pollute? Why do people keep saying this doesn't give the farmers the right to pollute?

Mr Gevaert: There's nothing in this bill that in my opinion would give that right. In fact, if I look at clauses 2(3)(a) to (d), which actually list those other acts, it tells me very clearly that the farming community must live within regulations. The reason I say this is because there are other opinions out there which ignore that and automatically say, "This is a bill to pollute." So my reason for saying "within the established regulations," is to make sure that we don't have 100 groups saying, "It's a bill to pollute," and have nobody saying, "No, folks, we're farmers and we're going to live within it." So it's very clear in the bill, but I thought I'd just reiterate it.

Mr Chudleigh: Thank you very much. You've done that very well.

The Chair: Mr Gevaert, thank you on behalf of all members of the committee. We appreciate your taking the time to come before us this afternoon with your suggestions.

Mr Gevaert: Thank you for the opportunity.

GREY COUNTY FEDERATION OF AGRICULTURE

The Chair: Now I'd like to call upon representatives of the Grey County Federation of Agriculture. Good afternoon, sir. Welcome. Please make yourself comfortable and introduce yourself for the Hansard record before you begin.

Mr Karl Chittka: I'm Karl Chittka. I'm the first vice-president of the Grey county federation but I also wear another hat. I'm one of the farmers you guys have been talking about all day. I do have pigs. I don't have that many, but I do have pigs. Besides that, I'm also on council. I'm a councillor in the township of Proton. My main presentation today is on behalf of the Grey County Federation of Agriculture. Here we go.

The Grey County Federation of Agriculture, with over 1,500 registered farmers in Grey county, has reviewed the proposed change to replace the Farm Practices Protection Act with a much-improved Farming and Food Production Protection Act, known as Bill 146.

Grey county, as one of the largest counties in Ontario and by far more rural than urban at this time — and I think that's a blessing from what I heard from other areas — is very much concerned that the farmers in our county can continue to do what they do best, ladies and gentlemen, which is producing high-quality food for all of the people in Ontario. We'd like to keep doing this now and in the future.

We are also very committed to protecting our environment for the next generation. We are demonstrating this by encouraging as many farmers as possible, and we are really shooting for 100%, to participate in the environmental farm plan workshops. We have been running, in Grey county, environmental farm plan workshops for the last five years. I don't know the exact number of farmers who have participated, but our workshops have always been very well attended and we have seen some good results because of this in terms of manure management and water preservation and this type of thing.

We are also encouraging our farmers, I think partly because it is in legislation, to participate in the pesticide workshops in order to get their licence to use the pesticides and also to give people an education — what is safe and what is not safe — to do with these chemicals. It is our sincere belief that we want to keep our lands clean, safe and productive, not just for the short term but for the long haul.

1430

We are also aware that more and more people from urban areas have the desire to settle in rural areas and enjoy the good life. However, this can create problems for farmers, as many of our new neighbours are not familiar with acceptable farm practices and nuisance complaints and lawsuits can erupt. This is counterproductive to the farmers' main goal: to produce good, safe and healthy food. By no means are we in favour of or do we condone achieving our main goal by polluting the environment or by making life miserable for everyone else, that is, the

new neighbours and the next-door neighbour. We have always striven and we continue to strive to be good stewards of our land and we hope to get along with the neighbours.

The Grey County Federation of Agriculture and the Ontario Federation of Agriculture have always promoted this goal, and I sincerely hope that we will continue to do so. After all, it's our livelihood and our future, and here I mean it's not just the future of the farmer but of every citizen in Ontario, because without food, and good, healthy food, we're all going to be in trouble.

The Farm Practices Protection Act has helped us in the past and has served us very well. However, in these changing times it has become apparent that some new language must be introduced to clarify what is acceptable farm practice in a way that all parties can understand. We in Grey county, after studying Bill 146, the Farming and Food Production Protection Act, are in favour of all the proposals and support the passing of this bill as soon as possible.

Thank you very much on behalf of the Grey county federation.

The Chair: Thank you very much. That gives us four minutes for questioning from each caucus.

Mr Chittka: I'm not quite finished.

The Chair: I beg your pardon. Go right ahead.

Mr Chittka: As far as the Grey county federation I'm all done, but while I was sitting in the back there and listening to some of the other people, I had some personal views in regard to intensive or what is being called industrial farming.

I believe in Grey county, at least in our township, we are looking after this by having a zoning bylaw which specifies the number of livestock units one can keep on a certain amount of acreage on a farm, because I think if the livestock is kept to the land base, pollution and other adverse effects should be very minimal. But of course if you put 1,000 sows or, heaven forbid, a North Carolina type of operation on a small land base, you're asking for nothing but trouble. I know pigs do smell. I did this morning.

The other item that was mentioned here was the nutrient management plan which is in the making now. I have had the opportunity to get a copy of this. I know this is not the board that will deal with this in the near future, but I'd just like to make one comment. When reading this document, I feel that there's a good possibility, when everything is implemented, it will lead to some farms being shut down if that law is enforced, because nowhere in that act does it show that there's going to be any kind of assistance for farmers to be able to comply with this. Some of the recommendations in that plan are very money-intensive projects that would have to be undertaken to bring the farms up to standard.

I don't know how many people are aware of this in this room here, but I'm sure if you're farming you must be aware of it. The profit margins in farming, be it pigs, be it cattle, or in other words the commodities that are not covered by supply management, are at best minimal and

the returns cannot support major capital expenditures for that purpose. I think in a way it's a shame that people who work hard and produce the best food in our area have to put up with such low returns as we are getting now. As a matter of fact, when you paste a \$20 bill on every pig that you ship, I don't know how long we're going to stay in business. Then being hit with having to do some major changes to get rid of your manure I think is going to be very difficult. That's from my personal point of view. Thank you very much.

The Chair: Thank you, and I apologize. I didn't mean to interrupt you. We have about three minutes for questioning from each caucus and we will begin with the NDP caucus.

Ms Churley: Thank you very much for your presentation. It's clear that you have long experience in this area and I appreciate your comments. I wanted to comment on Mr Chudleigh earlier saying that he heard today, and we heard today, people saying that this bill is nothing but a licence to pollute. I personally haven't heard that today. What I have heard is a great deal of concern — that's not to say people haven't said it before; I don't know, but not today — about the large livestock farm issue. You mentioned that in your area, for instance, there is something in place to deal with that and that is limiting, depending on the land mass, I believe you said. Could you elaborate a tiny bit on that and how that came about?

Mr Chittka: Proton township, which I'm a resident of, has always had a zoning bylaw and it always dealt with the units of livestock you can have on a certain land base, and it has worked very well for us.

We do have a little concern that what is happening also in our township now — and I don't know how we're going to deal with that because land is relatively cheap in Grey county and there's plenty of it — we're finding that we get more and more people from other parts of the province and people from abroad accumulating larger land bases. I can foresee that they will be getting into more intensive livestock farming, and that's a concern to us.

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Mr Barrett: Thank you, Mr Chittka. You mentioned you have a hog operation, and there are a number of hog operations in my riding of Norfolk. We have a couple of highly visible cases where a new operation is being set up or a very large operation is being expanded. It's in the media a fair bit, and there does seem to be a lot of confusion and a lot of emotion around this issue. I just wondered, from your perspective as a farmer and also a councillor, should more be done to try and explain to the general public how these operations run and the safeguards that are there?

We know there probably are a few bad apples, but should the pork producers or should the federation of agriculture be playing a larger role to educate the public, or do we rely solely on Ministry of the Environment legislation to deal with it?

Mr Chittka: I think farmers sometimes have to make their own decisions as to what they want to do. Do they want to be industrialists or do they want to be farmers?

Being forced to expand because of the price gap or in order to exist may be the most motivating part. I have made my operation based on my land space, and I do not intend to get into a large operation or to build a 1,000-stall barn or things like that, so it's my personal choice, I guess.

I think education courses would be very helpful, because everywhere you hear, "If you want a pig barn, you are public enemy number one." Of course, we know how to combat that too. If you don't want your pig operation to smell, you put a couple of sheep in front of it. Other than that, education in that respect would help, and I think that could be done.

Mr Hoy: Thank you very much for your presentation. Committee members might be interested to know that Mr Chittka has been here since before 9 o'clock today, I believe, and has been listening in to all that has happened today. He has been a very patient man waiting for his time on the agenda.

You mention North Carolina, and I don't think anyone here, on this committee most certainly, wants to have the negative experiences that have come from that jurisdiction or any other jurisdiction happen in Ontario.

You did mention that it is another issue, but the cost of compliance is also an important one for the farming community, the rural community and the urban community as well. I did make mention in the Legislature that currently, in general, agriculture is doing pretty well these days, but you and I both know it's a cycle. I'd hate to predict when, but it is quite likely that the prices are going to change. Agriculture has a cycle to it and quite often grain prices don't go in the same cycle as livestock prices, but often they're influenced by each other.

You make a very good presentation, and I appreciated your personal remarks at the end and your comments that you want to have a clean, safe and productive farm all at the same time. That's what I think we want too.

The Chair: Mr Chittka, thank you very much on behalf of all members of the committee. We appreciate your taking the time to come before us this afternoon with your advice.

WATERLOO FEDERATION OF AGRICULTURE

The Chair: Representatives, please, from the Waterloo Federation of Agriculture. Good afternoon, gentlemen, and welcome. As you start, please introduce yourselves for the Hansard record.

Mr Larry Erb: I appreciate the opportunity to speak to the committee, and we thank you again for the opportunity of having the Waterloo federation come back. There are some familiar faces in your group, so I'm sure they will remember hearing us before. I'm Larry Erb, past president of the Waterloo Federation of Agriculture, and Mark Reusser is the OFA board member for Waterloo region, so we represent Waterloo today.

I'd like to read the presentation to you, the one dated February 19, 1998. For your information, we have also

included a file copy of our presentation to Dr J.S. Ashman dated April 9, 1996. Some of our comments with respect to what we're presenting today actually are reflected in that previous presentation that we made, so I hope you will find that of value.

The Waterloo Federation of Agriculture's response to the proposed Farming and Food Production Protection Act, Bill 146:

The WFA represents the agricultural community of Waterloo region and is involved in issues that concern it. In the past, we have made presentations to government on the following: the Sewell commission on land use planning; the review of Bill 163 NDP land use planning; Bill 20 current land planning policies; the Fair Tax Commission; and the development of the Farming and Food Production Protection Act. That's the copy we're talking about.

The importance of agriculture in Ontario and in the Waterloo region cannot be ignored or discredited. In economic terms and job opportunities, it is second only to the auto industry in the province. The position of the WFA on issues has always been to promote the protection of the food production land base in policy development and implementation. The food production capabilities of Ontario and the ability to feed ourselves must always be assured. The population of actual farmers, 3% of total, and the population of rural non-farmers is of concern if the interests of agriculture are not protected at the provincial level.

The downloading of responsibility to lower-tier government can result in a power struggle at a local level. The importance of a strong Farming and Food Production Protection Act cannot be underestimated.

In reviewing the current proposed act, the WFA wishes to make the following comments. We believe the previous bill, the Farm Practices Protection Act, served the farm community well and was successful in keeping the number of complaints going to the board at a minimum. However, the need to expand the areas of concern to include light, smoke, vibration, flies and flexibility in defining normal farm practices to meet today's situation made changes necessary.

We also believe that the previous bill was successful in keeping complaints out of the legal system to assure that undue cost to the farmer is kept at a minimum. The assurance and determination to deal with complaints through mediation and out-of-court resolution must continue to be very high priorities.

In our original submission, we were very strong in advocating direct access to the board by a farmer who has been accused of a violation. While it appears that some changes have been made to make the board more accessible, we continue to be concerned about potential legal costs that may occur during the determining of normal farm practice. A preliminary assessment of the situation before a complete hearing takes place would eliminate the need for legal counsel at the beginning of a complaint situation. It is our observation that complaints are very often the result of a previous conflict between

neighbours that is not related to agriculture. The legal cost of hearings could be astronomical unless a system is in place to eliminate this type of situation from influencing the process and being a factor in the final decision of the board.

Section 9, the minister's role and powers: The WFA appreciates the concern of other farm organizations and individuals on this issue. However, our support for the proposed bill as it is written would be priority over losing the bill completely if this section is not withdrawn. We believe it is naïve and overzealous to think that a Minister of Agriculture will always act in the best interests of the farm community. Political pressure and the desire for re-election may influence decisions and have a negative impact on agriculture's ability to be viable and productive.

The Waterloo region is a prime example of the importance of strong farming and food production protection. We, the leaders of farm organizations, are trying our best to find ways to be proactive and to educate non-farmers about agriculture and its importance to the region's economic survival. Our involvement in promoting water quality programs, strong land use planning policy and farm tours is number one on our agenda. We believe that developing strong relationships with regional and township councils' land use planners, water resources personnel and the private and public sector is instrumental in preventing conflicts.

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During our involvement in the many situations previously mentioned, the relationship between land use planning and farm practices protection has become very evident. The need for one to support the other cannot be ignored. We have been frustrated by the unwillingness of provincial ministries and agencies to implement land use policies that prevent rural and urban conflict. Scattered residential development in agricultural areas continues to be one of the greatest threats to agriculture's viability. Unless the reality of this situation is acknowledged, the number of complaints will escalate.

In our original submission, dated April 9, 1996, we supported expanding the Farm Practices Protection Board's duties to include the ability to require compensation to be paid in certain situations. These include restrictions placed on agricultural operations located close to municipal wells. In situations where farmers are adversely affected by restrictive municipal bylaws, the need for compensation must also be considered. An example of this is a situation brought to our attention in a neighbouring county. In this case, a barn had been empty for a number of years. The owner of the farm was prevented from housing animals because it could not meet MDS to a neighbouring residence. Compensation to build a new barn may be necessary. We believe this type of restriction contravenes provincial guidelines.

In our opinion, Bill 146 is the minimum of protection that is needed to assure the future of Ontario agriculture. Those who argue that it is agriculture's licence to pollute have ignored many of the intentions and statements in the proposed act. We make specific reference to it being

subject to the Environmental Protection Act, the Pesticides Act, the Health Protection and Promotion Act and the Ontario Water Resources Act.

In closing, we wish to compliment the province and OMAFRA staff on their determination to develop the Farming and Food Production Protection Act, Bill 146. We urge the provincial government to pass this bill as soon as possible to assure continued support for agriculture.

The WFA thanks the commission for the opportunity to respond on this very important issue.

The Chair: Thank you. That leaves us four minutes for questions from each caucus. We'll begin with the government caucus.

Mr Hardeman: Thank you, Larry, for your presentation. I just want to get some clarification on your concerns on page 2 as they relate to the legal cost and getting to the board with a complaint and your suggestion that that's still going to be cumbersome and costly and if you have any suggestions on how we would improve on that to avoid that.

Mr Erb: What we're alluding to here is that if I, for instance, as a farmer were to get a registered letter in the mail from my neighbour's lawyer indicating that he was suing me or whatever for something I was doing, we should be able to make the proper contacts and have some type of evaluation system in place before I even phone my lawyer. That's being hypothetical, but it's what we're aiming at here, so that I as an individual who is being accused of something that has not been determined by a legal body as being a problem should not have to spend a lot of money in legal costs before the process even starts. That's what we're alluding to here. If there were a mechanism whereby I as an individual farmer could phone someone at the OMAFRA office, for instance, and say, "This is the letter I've been given. I would like to have some kind of a pre-hearing evaluation of whether this is or is not a normal farm practice," that's the type of thing we're thinking about.

Mr Hardeman: I guess from that, then, you're making the assumption from the way the bill is written that the first step in the process would be legal action, and then the two legal sides would take it to the board, as opposed to my vision that if there was a complaint from a neighbour, the first step would be that both parties would try to negotiate a settlement, and the next step would be the board, and if it was not considered to be a nuisance complaint, the board would so rule, and then it would go the legal process. But you see that you would have to have legal involvement prior to going to the board?

Mr Erb: I guess what I'm saying — and I have some understanding of the process as it exists under the present act — is that if the complainant bypasses that route and goes directly to a legal situation, then that would be a possibility. If that person has used the process that is in place, which I believe is to contact OMAFRA, and if OMAFRA is brought in, they will contact the Ministry of Environment or whoever. That process is there. But if someone goes the other route and decides to challenge just

strictly on a legal basis, I'd like to see some kind of a channel there that could work before the farmer has to pay out a lot of money in legal costs.

The Chair: There's a little bit of time if you want to follow up.

Mr Danford: No, go ahead.

Mr Hardeman: The other question was in relation to the clause you mentioned some of the other farm organizations had requested be removed. You're supporting, somewhat, the bill as it is, and you don't want to lose the whole bill based on that section so you would accept that. Do you not see that section as protection for farming as opposed to a detriment to farming, that in fact the minister could, through regulation, set what was a normal farming practice even though it was not so decided by the present practices?

Mr Erb: I think we're making reference to the suggestion that in the ideal situation we would hope the minister would always act in the best interests of agriculture. But we're suggesting there may be cases or a situation or a time in particular, for instance, in the mandate of a particular government, when there may be some other influence and outside pressures, or pressures from within, that may influence him to look at it a little differently or his support for agriculture may not be quite the same. We're making reference to the population of rural Ontario, not just the agricultural population but the population of rural Ontario. Certainly you have that mix in any riding. The potential for re-election, for instance, in a situation of that nature may influence a person.

Mr Hardeman: My concern was that if there was not something of that nature in the bill and there was something that was new in technology or new in the way of doing things, the board would not be able to judge that based on past practices. There has to be some way to define whether that could be considered normal farming practices or nothing new would ever be allowed to happen. Wouldn't you see that as a problem?

Mr Erb: We see this as giving the ultimate power to the minister. Is that correct? The ultimate power is at the minister's level, and he could possibly use that influence at some time in a negative way.

Mr Hoy: Thank you for your presentation. You've actually answered my questions on section 9. You were talking about legal cost. As well, the minister may make regulations prescribing fees in respect to an application under this act. He may also authorize refunds. It doesn't say he will give refunds — he may — and, of course, he may make fees. If fees are applied, I would hope it's a balanced fee schedule, that we don't have fees that push people away from the board or cause them not to approach the board. I hope the government will be wise in that regard and we don't have a fee schedule that turns people away from the normal farm practices board. But that was not your issue, was it? You were talking more in the sense of lawyer to lawyer?

Mr Erb: In respect to your question on that issue, my response would be that if we are comparing it, for instance, to the Municipal Act and an OMB hearing,

where a hearing board chairperson can in fact assess costs to a party if it's considered to be vexatious, that type of situation, we would see it in somewhat the same kind of light.

In our presentation we make reference to conflicts on occasion not being agriculturally related. It may have been something that has developed, a conflict between two neighbours, and this suddenly becomes a way of one getting at the other person. There is the possibility of that type of situation, and that's where I would see your assessment of costs under somewhat similar guidelines, the situation being vexatious or frivolous or whatever. I would say those are two different issues, but we're talking strictly about the cost to an operation or an operator who really hasn't been deemed guilty.

Mr Mark Reusser: May I follow through? I think our main worry is that a motivated complainant might want to and try to, in every way possible, circumvent this process, perhaps knowing that the complaint might be found vexatious or frivolous in this process, but by going through the legal process he or she might have a better chance of winning. That's what we're worried about, I believe.

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Ms Churley: Thank you for your very thoughtful and I find helpful presentation. I want to follow up on the whole issue, because we haven't discussed it yet today, of so much power in the minister's hands. This is a concern we've heard from some others as well, and certainly it's a concern we've heard about a lot of this government's bills. It is just repeated and a lot of power is given to the minister. When you point out that in the future there could be a minister who could do damage, it's well taken. What I'd like to know is what you would suggest because there probably will be an amendment on this, which if the government doesn't put forward, I expect I will. I wonder if you have some suggestion that you think the government members could live with to replace that clause.

Mr Erb: I would have to say I don't think we've given that enough thought and we would have to have some time to respond to that. Maybe that's not a fair response but I think it is the only one I can give today.

Ms Churley: That's fine. There is some time, if you want to think about it. We will be doing clause-by-clause. I think it's March 10. If you wanted to consider something, I'm sure the government members as well would like to see that. There might be an alternative there that we can all agree to.

The other thing I want to follow up on is the land use planning. I note that you participated in the Sewell commission on Bill 163 and also on Bill 20. Of course there was quite a drastic change from Bill 163 to Bill 20. I wanted clarification. I've looked quickly at this document you've attached. It is the whole issue around the agricultural land use guidelines. Under this government, it says that the municipalities are required to have regard to the provincial land use policy as opposed to — and this was a major argument when they brought their bill in,

when they changed that from our wording, and that is to —

Mr Hardeman: A difference of opinion.

Ms Churley: A difference of opinion, right.

I wonder if that's what you're saying, that you'd like to see that clearer in the municipal plan so that there is less of an opportunity for what I've been hearing from some of the farm community about the urban sprawl and the subdivisions, the fear around losing more and more of our farm land. Is that what you're saying? I may have misinterpreted it.

Mr Erb: Yes, exactly, that's what we're saying. Mr Hardeman has heard us on this issue a number of times. I think that whether people want to accept the fact or not, the crossover between use planning and farm practice protection is there. It cannot be ignored. I'll give you an example, and this happened in our own region just in the last couple of months. This happened to be a vacant parcel. For some reason, the local municipality did not apply MDS. A castle, literally, went up about 500 feet from a neighbouring chicken barn. If anybody can tell me that's good planning, then I have some difficulty.

The Chair: On behalf of all the members of the committee, we appreciate your taking the time to come this afternoon to present your ideas and advice.

DOUGLAS DESMOND

The Chair: I'd like to now call upon Douglas Desmond, please. Good afternoon. Please make yourself comfortable. Welcome.

Mr Douglas Desmond: My name is Douglas Desmond. I'm a lawyer and a farmer in Howard township in Kent county down around the Ridgeway area. You have in front of you my written submissions, which I know appear a little intimidating, but in fact the written submissions are only 9 pages and the rest of it is just some supporting materials that you might be interested in.

For the purposes of oral submissions, there are essentially three issues I wish to alert the committee to.

The first issue the proposed legislation deals with is virtually identical but notably different from the Farm Practices Protection Act. It concerns itself with immunizing farmers from the common law action of nuisance for certain types of disturbances that they create or could create.

The second issue of the proposed legislation is new and not dealt with under the Farm Practices Protection Act. The new power contained in the legislation is the proposed authority of the Normal Farm Practices Protection Board to effectively strike down municipal bylaws, or more precisely to grant a variance to a farmer who makes the case that his practice should not be prohibited under a bylaw but should be viewed as a normal farm practice.

The third issue concerns the definition itself of a normal farm practice.

First then, let's deal with the nuisances identified under the act, or what they describe charmingly as disturbances. As you're well aware, I'm sure, this sort of legislation is

common throughout Canada and the United States. I'm not here today to make the case that a farmer should not be protected in nuisance in this manner. I am here, however, to alert the committee that there are novel changes in nuisances identified under the proposed legislation as opposed to the antecedent legislation. Under the current legislation, dust odour and noise, I believe, are the only nuisances identified. Under this legislation, flies, light, smoke and vibration are included.

What is important to note in this list of disturbances is the disturbance of flies in particular, because this is the first clue, in my view, in the legislation as to what the amendment of the Farm Practices Protection Act is really all about. What attracts flies? I can assure you, it isn't soybeans, corn and wheat. It's livestock. Livestock by and large means pigs, because that's the most quickly growing area of agriculture in Ontario, I believe.

What's important to note is that the production of livestock, particularly hogs, is not of the traditional family mixed farming sort of livestock production. The type of livestock production now occurring in southwestern and south-central Ontario is livestock facilities that may contain as many as 5,000 pigs in one barn. By even the most conservative estimates, 5,000 pigs create the equivalent quantity of manure as does a population of 20,000 people.

Some time when you're driving by one of these barns — I'm not sure whether you're farm people or not — and you notice that horrific odour, you should be cognizant of the fact that the barn you're smelling may house the equivalent in human population of 20,000 people.

It's a normal farm practice — I'll get to the subject of what is or isn't a normal farm practice and what it means — to take all that excrement, untreated, and spread it on the land, winter, summer, spring and fall without regard to weather conditions or soil types. Invariably, that liquid manure runs off or leaches through the soil and enters in our watercourses, lakes and rivers.

The so-called disturbance identified as "odour" in the proposed legislation was also contained in the previous legislation. The odour, however, towards which this legislation is directed is not the same odour that the Farm Practices Protection Act anticipated. At the time the Farm Practices Protection Act was made law, I believe it was in 1986, the intensive livestock industry had not yet come to Ontario in a significant way. Times, however, have changed.

Accordingly, when you read "odour" in the list of the disturbances in the proposed legislation, it should not be understood as the sort of odour that proceeded from the mixed farms of perhaps your childhood memories. The odour contemplated in this legislation is odour that can extend literally for miles around the facility itself. Scientific studies in the United States support incontrovertibly the proposition that a livestock facility containing as many as 5,000 pigs will extend a plume of odour for a mile or two around the facility that is as strong as if you were standing directly beside the barn.

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Supposedly, the issue of odour is addressed in the Agricultural Code of Practice, now known as the Ontario

Guide to Agricultural Land Use. This guideline sets minimum distance separations from facilities to neighbouring residences not on the same lot, a calculation which is purportedly based on calculations of odour production per animal unit. An animal unit for hogs, for example, can be five sows. But this is not odour as any reasonable person would understand it; this is debilitating odour. This is odour that has a profound effect on the value and enjoyment of neighbouring properties.

The minimum distance separations set out in the code of practice which are now law in some municipal jurisdictions, including my own, are so grossly inadequate that if you have the misfortune to be within a mile or two of even one of these small facilities, you can expect to be smelling the odour of pig manure every day for the rest of your life.

The second important issue and distinction between the proposed legislation and its predecessor is the ability of the proposed Normal Farm Practices Protection Board to effectively strike down municipal bylaws.

More precisely, in my view as a lawyer, the power is one of granting a kind of variance from any restriction placed in a bylaw. I can assure you that there is one reason, and one reason only, that this authority is being proposed to be granted to the Normal Farm Practices Protection Board. This section of the act is being proposed for the benefit of one industry in particular, and that is the intensive livestock industry. The intention of section 16 of the proposed legislation, the hidden agenda if you will, is to grant this industry, retroactively as well, a licence to expand without interference from the municipalities and the other citizens they represent.

The third issue of paramount importance that I wish to direct to the attention to the committee is the proposed definition of "normal farm practice." This definition is identical to the definition that was contained in the Farm Practices Protection Act. What is notable about this definition from a legal point of view is that there is no reference, expressed or implied, as to whether the farm practice under review is proper or improper. In other words, the standard of care that this definition of "normal farm practice" implies has no regard and makes no reference to the economic or environmental consequences of the practice.

To make an analogy, a definition of a standard of care or a definition of due diligence for a farm practice like "proper and acceptable customs and standards established and followed by similar agricultural operations under similar circumstances" would be equivalent to saying to the medical profession that as long as all doctors performed a procedure in a particular way, it's acceptable, notwithstanding that all the patients died from the procedure.

This definition of a normal farm practice as a standard of care is, in my respectful view, a prescription for environmental disaster and in fact defeats the precise purpose for which the definition exists. I am a farmer and a lawyer, and I can assure you that the courts are not so naïve they are likely to accept as a standard of due

diligence or the defence of due diligence a standard of care which is no standard at all. This definition of "normal farm practice" is not only a complete fraud upon the citizens who will suffer the consequences of the particular farm practices; it's also a fraud on the farmers, particularly the livestock producers, that it is intended to protect.

There is only one reasonable solution to that difficulty, and that is to set into legislative form a standard of care that has regard to the consequences, environmental and economic, of the particular practice. That standard of care exists in the Agricultural Code of Practice and in other agricultural guidelines, including the Canadian Pork Council's code of practice for environmentally sound hog production. Unfortunately, these codes of practice are not law. They exist simply as guidelines and have not traditionally been used to give meaning and content to what is or is not a normal farm practice. This state of affairs has to end, not only for rural residents but for the livestock producers themselves.

In short, this definition of "normal farm practice" does not protect an intensive livestock operator from me, acting as a lawyer. What is in my view essential for the committee to understand, if it hasn't been made clear already, is that the proposed changes to the Farm Practices Protection Act are for the sole benefit of this one industry; that is, the intensive livestock industry.

There's no doubt you have heard many submissions today that don't appear on first blush to be directly on point. You will note that many of the submissions are focusing on the intensive livestock industry. It is not apparent from a reading of the legislation what relationship that industry has to the changes proposed in the bill. If I do nothing else today, I hope that if the connection has not been made thus far, my oral submissions and particularly my written submissions will help you to do so. I would commend you to read my written submissions, which are considerably more legalistic and might not be appropriate in the form of an oral submission in any event.

The Chair: You have left us time for about three minutes of questioning from each caucus, and we begin with the Liberal caucus.

Mr Hoy: Good afternoon, and thank you very much for your presentation. I will look through the brief that you have submitted as well, probably this evening.

You talked about a great many things here. The minimum distances not being adequate for today's agriculture is one you have cited. Do you have any suggestions in that regard as to what it might be?

Mr Desmond: I reviewed a year or two ago, in an application process to amend the township of Howard bylaw, all of the codes of practice throughout Canada and the United States. As to the particular method that Ontario is using for this odour-potential calculation, we are the only province, the only jurisdiction, I have found that calculation to be in. All other jurisdictions, in my reading, were using absolute minimum distance separations, fixed distances.

I think if you talk to Mr Toombs, it will be readily admitted that calculations of minimum distance separations in the code of practice did not anticipate livestock facilities of over 500 animal units. That issue hasn't been dealt with at all, not even in the code of practice.

Mr Hoy: On the questions you've posed about bylaws, we heard earlier today of bylaws where urban thought was going to put, in the opinion of the presenter, some undue harm in regard to fencing. It was perhaps an innocent error in an urban setting — they were talking about swimming pools etc — where it was going to have an effect on the fencing of many acres of land. I think that may be resolved eventually, but it was a point of where a bylaw could have a negative effect on a farming operation that was unintentional.

There are other examples, notwithstanding your argument, where maybe there needs to be a body which says, "This would be an abnormal application to a normal farming practice." I would think you would agree that the type of fencing that might be used around a swimming pool wouldn't be required around, let's say, a 100-acre farm. My point is that there may be some need to scrutinize bylaws so that we don't have a negative impact on the people involved in agriculture, or maybe simply a landholder.

I haven't read this other part of your brief. This legislation changes the word "accepted" to "acceptable," and there has been some discussion about that from others during the course of our hearings. I wondered if you had any mention of that in here that you might want to comment on.

Mr Desmond: No, I didn't make that distinction, but you're probably correct. Do I think it has any meaning or significance? Off the top of my head, no. In my respectful view, the problem with this definition is a problem that's going to cause a tremendous amount of litigation, particularly for livestock producers. They're not protected by this at all. They need a standard of care they can rely on so that they can raise a defence of due diligence when or if they are attacked legally, and this does not protect them at all, or anybody else.

Ms Churley: Thank you for your presentation. I'll take a look at this later.

I noticed that in your oral presentation you concentrated on odour, but those who have concerns about large livestock operations have mostly expressed concern about water, particularly water contamination. There is some question, as I've been listening to various groups, of whether there is any evidence that there is such a problem or even will be a problem. I'm wondering if you have a comment on that.

1520

Mr Desmond: If you wish evidence, I can provide you with a mountain of it from all over the world.

Ms Churley: I think we could all use some information and some evidence because it is important that we all have the facts. There is some disagreement around this table and from people who are presenting to us as to whether or not this is an issue. We had some government member

refer to those who have concerns about it as those who say this bill is merely a licence to pollute. In my view some of them are not taking this issue seriously and I would like to try to get to the bottom of it because it's a very critical issue for the future of our children.

Mr Desmond: The truth is, of course, that the real issue is about water pollution, and that's part of the fallout from this act. Unfortunately, it's an act that deals particularly with nuisances and the only way to approach the issue of the potential for pollution through this act, as far as I can tell, is through the issue of odour. At least that's been my experience in reading the case law under the Farm Practices Protection Act — all 12 cases.

Sure, that's why I'm here today. It's water pollution that I'm worried about and I'm trying to alert this committee that this bill does not address the real issues and the real problems that are on the farm. What this act appears to be saying to the farmers and livestock producers in particular is, "This act is going to help you. This act will save you," when in fact it's not going to do anything for them.

Ms Churley: What do you mean by that, that it's not going to do anything even for the livestock farmers?

Mr Desmond: Because if somebody is contaminating my land with offsite contamination, which happens to me on a fairly regular basis, I have my remedies in nuisance. Unfortunately, those lawsuits cost thousands of dollars to bring. But the remedies are severe. If I bring an action in nuisance because I have a river of excrement flowing through my farm, my remedy in law is an injunction to prohibit him from spreading at any time.

Ms Churley: So what you're suggesting is that if this bill goes ahead without a remedy for that possible problem, the pollution will happen and we'll end up not dealing with it until after the fact, and the expense and the health problems associated with that.

Mr Desmond: Yes. I'm suggesting that this act does not deal with the problems that are actually on the farm or the actual nuisances that the farmers are creating. That's the essential problem with this act.

Ms Churley: Are you therefore recommending that the government withdraw the bill or are you recommending a particular amendment?

Mr Desmond: If you read my submission, there are some suggestions, but my fundamental suggestion is that they put a proper standard of care into this act so the livestock producers and the rest of us know where we're at. That standard of care in fact exists in the Ontario Guide to Agricultural Land Use. It would be my recommendation that section 9, for example, specifically refer to the Ontario Guide to Agricultural Land Use as one of the guidelines and that any directives that purport to change the definition of "normal farm practice" are subject to the code of practice. We have a Charter of Rights and Freedoms and our legislation is subject to review under that. I would suggest that the proper way to approach that issue here would be to make any directives that would affect the definition of "normal farm practice" subject to the agricultural code of practice.

Mr Danford: Thank you, Mr Desmond, for your presentation. I too will have an opportunity I'm sure at a later date to read it more thoroughly and understand it more than the time allowed you to make your presentation.

Mr Desmond: Please do. It took me about 15 hours to write.

Mr Danford: Well, we will certainly spend as much time as we can and what's necessary.

You spoke specifically about water pollution, which was one of your comments. This bill, as you well realize, is to deal with what comes under normal farm practice and whether in fact it creates a nuisance. It is not intended in any way, and never was, to supersede anything in the Environmental Protection Act, the Ontario Water Resources Act and all those other acts that are already in legislation.

Mr Desmond: That's correct.

Mr Danford: Are those acts not more appropriate to cover some of the concerns with regard to water pollution, if that's in fact the case, than this act? Would they not be the ones to deal with it and that avenue be the way to go?

Mr Desmond: It would be nice if the Ministry of the Environment had the will and the means to enforce its own regulations, or for that matter if the Ministry of Agriculture had the will to enforce its regulations under the Drainage Act, which it does not enforce either, because I've tried to use those sections of the act. My understanding is that the Ministry of Environment's budget has been dropped 40%, at least that's what I read in the newspapers. So you have a situation where in fact the ministries that are supposed to be enforcing the Ontario Water Resources Act and the Environmental Protection Act are not in a position to enforce them.

You'll find in my submission some other problems with those acts. For example, section 15 of the Environmental Protection Act excludes farmers from even the reporting of spills if the spill occurred as the result of a normal farm practice. What's a normal farm practice? A normal farm practice is to spread your waste whenever you can.

Mr Danford: I'm certainly not going to debate it with you this afternoon, but I think if someone has a spill of commercial fertilizer or something to any great extent, then I think that would be considered a spill in my interpretation of it and they would be subjected to all the same rules of a spill act as anyone else would be, in all fairness. I don't know whether you want to comment, but that's the way I understand it. I'm just sharing my opinion.

You mentioned some concerns about flies and particularly odour. You referred to odour and it was more or less directed relating to the odour in this case from the pork industry.

Mr Desmond: Correct.

Mr Danford: You feel that's the only place that the odour really presents a serious problem?

Mr Desmond: Practically speaking, I think that's the industry that's growing rapidly and the industry that the Ministry of Agriculture is promoting and trying to help. It's where the money is for a lot of farmers. These opportunities come along once in a generation, don't they? I

don't blame the Ministry of Agriculture for wanting to promote this industry. I have a problem that they don't want to recognize the problems that are associated with this industry worldwide. That information is readily available because I have it myself.

Mr Danford: I'd just like to share with you that in the consultation and in developing this bill, as you readily recognized earlier, odour was part of the former bill. That's not new. But odour can occur in rural areas in a variety of ways and I think it's not necessarily true to say that it all happens from the pork industry. I'm not necessarily defending them they can look after themselves but I think you will also realize that odour can come from the spreading of sludge from municipal waste, which comes from a different source. It's not all animal units. I think that also can occur and that could be dealt with under this bill as well. It does try to cover all the aspects of odour and it goes beyond.

Mr Desmond: That may very well be true. I'm suggesting to you that the spreading of sludge is not the problem in farm areas.

Mr Danford: But it does cover the whole definition in the gamut of odour and it is not confined to one particular place.

I guess the other thing is, I will look forward to reading your presentation. I couldn't help but notice that when you mentioned the definition of normal farm practice you related it to fraud in developing it and putting it together. I think I will read your presentation to further clarify that point. I think "fraud" was a rather extreme word. There may be a difference of opinion, but to say it was done fraudulently I think is somewhat different. That's just a comment.

Mr Desmond: Fair enough. It might have been a little bit of an exaggeration. What I'm suggesting is that the government is proposing this act to these livestock producers and suggesting to them that this will help them. I'm suggesting that it will not help them and it will not help anybody else either. It does not protect them because it doesn't set a proper standard of care that they can rely on so that they can raise a defence of due diligence should they be attacked: "Here's what I'm supposed to do; this is what I did."

The Chair: I know there are people who still want to ask you questions, but our time is up. On behalf of all the members of the committee, we do thank you for coming forth. You have given us some homework tonight. We appreciate it.

1530

LAMBTON FEDERATION OF AGRICULTURE

The Chair: I call upon representatives of the Lambton Federation of Agriculture, please. Welcome.

Mr Robert Johnston: Madam Chair and members of the committee, my name is Robert Johnston. I'm past president of the Lambton Federation of Agriculture. My

partner here today is Earl Morwood. He's one of the vice-presidents on the Lambton Federation of Agriculture.

We're very pleased to be here today to bring the views of farmers in our county, some 2,900 of them ranging from cash crop mixed-farming to some of those intensive livestock operations.

We pulled together our public relations committee and brought in some commodity group people and we had a meeting and got some of their thoughts down there as well as the thoughts of some of the folks from the Lambton Federation of Agriculture. I'm going to try to hit the high points of this, the salient points, so we have more time for questions.

While the Farming and Food Production Protection Act is legislation that has been formulated to protect proper farming methods, we have some concern that in review of the cases that have been brought before the review board as the years progress, farmers are having to do more corrections of what are already normal farm practices in order to satisfy the public at large and the members of the Farm Practices Protection Board.

Some everyday farm practices create odours, noise and dust. These can be a nuisance to some farm neighbours, especially if other conflicts already exist in that relationship. We can underline there and put between the lines family feuds. The current act responds to these nuisances. Even when a farmer strictly follows the rules, adheres to the codes in place and follows best management practices, there can be problems with the neighbours. We recently had such a case in Brooke township in Lambton county, where the farmer followed everything by the book and still when it went before the board he had certain limits placed on his manure application practices, even though he was following good guidelines and always acted in good faith.

Manure smells. Dryers, farm machinery and animals make noise. Harvesting and tillage, by the nature of the activity, make dust. These things may be annoying but they do not threaten life or the environment in a traditional sense. We simply ask for legislation that protects the farm community from outside complaint and court action when the farmers are carrying on practices that are normal and practical in their setting.

Farmers are definitely not asking for legislation that allows them to pollute. When we do review the cases that have come before the protection board, we find many times that it is not an outright act of pollution that is the main culprit but an action non-farm neighbours do not understand or an action they consider to be a nuisance. Every farm activity, especially those affecting water, land, wildlife and protected plant species, involves legal obligations.

There are other acts that govern watercourses: Well drilling, weed control, pesticide storage and fuel storage. Local bylaws often address, in our county, minimum distance standards, topsoil preservation and other things such as environmental farm plans and grower pesticide safety courses. We seem to have many of these things covered very tightly.

The Lambton Federation of Agriculture agrees with the Ontario Federation of Agriculture that new legislation include nuisances that concern light, vibration, smoke, flies, odour, dust and noise. We also support OFA in regard to section 6 of the act, which enables farmers to apply for an exemption from a municipal bylaw that unnecessarily restricts farming practices considered to be normal. Of course, as we've heard several times today, what was normal back in 1975 when I got out of Ridgeway College doesn't look quite as normal now. But the act of spreading manure on the ground is the same as it was then.

The LFA also supports the fact that the Normal Farm Practices Protection Board can refuse to hear an application made to it under nuisance or disturbance municipal bylaws or vehicle bylaws if the board believes the applications are frivolous.

We also support OFA in regard to section 9. Some believe section 9 gives the agriculture minister too much power. Other Canadian and US farm practice acts contain similar provisions. Without them, administrative changes would have to go through the legislative process.

Skipping down a little bit on the page, a quote from our friend Mike Huybers, president of the Lambton Pork Producers, sums up the debate from a hog farmer's perspective. In his discussion of the act he said that the act must be more than a device that drives up the costs to farmers, with the result that the changes make the producers in Lambton county high-cost producers and unable to compete with producers from the other provinces and other regions of the world not operating under such restrictions. I think he can see down the road in the future where maybe there won't be any hog production in Ontario, that it will all be moved out west, with the resultant loss of the economic activity involved.

We went around the table at our meeting with our public relations committee and with some commodity board people who were involved in livestock, and I'll just quickly run through some of the things we consider to be normal practices and a couple that perhaps aren't.

Many producers consider winter application of manure acceptable when applied in lower quantities and at properly selected times.

Application of manure by irrigation and tanker on no-till land is a normal farm practice in Lambton county.

Injection of manure into the soil is a normal farm practice in Lambton county

Piling of solid manure — that would be what's produced from the animal and absorbent material such as straw — in a rigid pile is a normal farm practice in Lambton. The representative from the LCA recommended separating solid and liquid components of the manure.

Livestock manure should be shared with a cash crop neighbour when the soil tests on the livestock farm indicate that the nutrient level loads are excessive in the fields that are normally spread.

Soil testing, grid sampling and common sense should become normal farm practices in Lambton county for all commodities including cash crop, hay and pasture.

Farm machinery and grain dryers and barn fans running around the clock is a normal practice in Lambton county.

The representatives of the commodity boards felt that organic farming in the way that we regard it today is not a normal farming practice in Lambton county because it's not something that's been very active in the county, although that's no indication that we are against organic farming. Rather, it is the feeling that properly applied manure in proper quantities provides the organic nutrients needed to produce healthy crops and meat products for the consumer.

We very much appreciate the chance to come here today and we hope to answer your questions.

The Chair: Thank you very much. You've left us with about three minutes for questioning by each caucus. We begin with the NDP.

Ms Churley: Thank you for your presentation. I take it you don't agree with the previous presenter.

Mr Johnston: There are points that he makes that are good points, of course. Sometimes it takes a while to get through the legalese of the whole thing. As I indicated and as other presenters have indicated too, we're up against a price crunch and a cost crunch, especially in the hog business, and it's getting worse.

Many years ago when I gave up hog farming, it was a great hobby but I thought it was getting to be too expensive. I thought I could have more fun losing money sitting down at the local pub than wading around in the hog barn. It's going to continue and there's no way to put an end to it other than putting so many restrictions on the larger operations that they just either close down or move to another province.

Ms Churley: I understand what you're saying about the competitive nature and what's happening in the United States. I think that is a real issue. I suppose what I'm hearing some people say is that, be that as it may, we ignore the possible potential environmental hazards of the industry at our peril, for existing farmers but also for future generations. As farmers yourselves, what is your position on that?

Mr Johnston: There's probably no one in Ontario who is more concerned with the natural environment than the farmers. The position that these large operations are put in, I'm sure it's got to haunt their consciences too when they say, "We have to put up a gigantic barrel in the ground or a hole in the ground to hold this stuff for a year or a year and a half, and then find ways to properly put it on the soil so it's not running off into the ditches, so it's not going out through the tiles."

We can only hope that through the preaching of organizations such as OFA and the animal councils we have here in the county, we can convince these producers to do things as right as they can. Even when you do that, there's always a potential for something bad to happen. Life is full of risk. If you have a spill once every five years in a particular area, that's not going to necessarily destroy the natural environment. If you're having these spills once every six months, then it becomes a problem and the other operators in the area have to zero in on it.

1540

Ms Churley: On the whole issue of what is considered normal farm practice — you mentioned some; it was good to have some of those listed — could you see a situation where there may be a practice that has been considered normal for quite a while and a municipality says you can't do that any more, for whatever reasons, environmentally unsound or whatever, and it goes to the province and because it's always been considered normal, they will overturn it because they can under this new law? Can you see that as a problem?

Mr Johnston: The first one that comes to mind would be a fight against spreading manure on frozen ground.

Ms Churley: Because of the runoff when it —

Mr Johnston: It's debatable whether it's better to spread it on frozen ground or not. It's not allowed in Quebec. I have spoken to livestock producers who say that if you spread it lightly and more times, the freezing and the thawing effect in the soil will actually trap it in the soil better than spreading it in the summertime and having five inches of rain come down.

Ms Churley: So there are even different opinions on that.

Mr Johnston: Definitely, and the scientific community still hasn't brought us definitive knowledge on that.

Mr Chudleigh: By and large we've talked about the industrial production of hogs, a very large unit. Do you have any personal experience with these types of units, where you've been onsite, you've seen how they operate, you've seen how they handle their waste and how it's spread?

Mr Johnston: I have not personally been to visit one.

Mr Earl Morwood: The farm in Brooke township that we mentioned and Mr Desmond mentioned is in my neighbourhood, and I'm familiar with it, yes. It's a new site and he irrigates his manure. It's a mid operation, in between sows and then finishing. He was irrigating his manure on no-till land and was taken before the farm protection board.

Mr Chudleigh: By and large, in other types of agriculture, and I haven't been onsite in one of these large hog producing areas, I find that some of the largest producers are also perhaps the most conscientious, the best planned processes.

Mr Morwood: Yes, from necessity, that's right.

Mr Chudleigh: I know in the fruit and vegetable business, in my experience, it's 100% true. I'm not sure I can think of an example where a large producer isn't also a very good producer from all aspects, and almost has to be to economically survive in the marketplace. Would you find this to be generally true in the hog production business or in the broiler business, as well, which I think could present an equal problem?

Mr Morwood: This is one example. We don't have as many broiler operations in Lambton but we do have lots of hog operations. The one in my township is the most visible because of the problems it's had. He did everything, got his zoning bylaws right, got his MDSs right, everything he did; his ventilation etc was perfect. He needs to do

everything right because I think these farms are very expensive and they have to turn out a product when the prices have probably dropped, for a finished hog, by about \$100 in less than the last year. He's been very efficient, done everything extremely well, and even then he was a leader in Ontario politics. This man knew his business and still got into some difficulty with the neighbours and now can't spread manure on no-till ground, which we think is a normal farm practice. That means he has to go out and buy another line of machinery to apply the manure. So it's a problem.

Mr Hardeman: Thank you very much and thank you for your presentation. I appreciate that at the end of your presentation you go through a format of what the people and the producers in Lambton county consider normal farming practices. I wonder if it's your position that's how normal farming practices should be set. Is it because 5% or 10% of the farmers do it that it should be considered a normal farming practice, right or wrong, or should it be set on what is an appropriate farming practice?

Mr Morwood: It's much more than 5%. We met with the organizations that represent the producers and are asking the producers what they want. They consider these practices to be normal because they're effective and don't pollute, so I think probably the answer is —

Mr Hardeman: I didn't want to focus on the percentage. My question was on the issue of spreading manure on frozen ground, provided we don't spread too much. I was wondering where in the discussion of that the issue of nuisance liability would come into play. Whether it's frozen ground or unfrozen ground, if you pollute the stream, that is not a nuisance, that is pollution and it would be covered under the Environmental Protection Act.

Mr Morwood: Yes.

Mr Hardeman: So whether it's normal farming practice to do it on frozen or unfrozen ground, how did this group decide that was considered a normal farming practice and should be involved whether it was a nuisance or not?

Mr Morwood: From the results, from the experience. These were experienced producers. The chairman of the hog producers in Lambton has a very large operation, and the other one has been doing this for some time. He's a cattleman and they have been doing this practice for some time. They find that when they separate their solids and liquids, if they spread it in an effective manner in the winter, they're not polluting and probably the smell — many of us have noticed the smell in the summer on hot, humid days, and maybe we don't notice it so much in the winter. These are people with lots of storage. It's not because they don't have the storage; it's because they think it's a normal farm practice.

Mr Hoy: I was thinking along the lines of this frozen ground, and it's quite right, if it's pollution it's pollution; there's the answer. But in part I think the ministry must get involved in the science of doing this as well. I too have heard from farmers who say that it may be better to do this when it's frozen, so I think we need expert opinion now.

Things are changing quite dramatically in life. There was a time when we thought asbestos was okay. We filled buildings full of it, and now we've decided that it's not right and we have to do something about it. That's an example of change and an example of a science telling us that certain things are not good for us and not proper to do. I think we're into an issue where we need a fair bit of science applied to it as well.

In section 9, "The minister may issue directives, guidelines or policy statements," and there have been some, as you mentioned, who are not particularly in favour of that section at all. In my mind, if the minister makes a policy statement, one is going to know about it, and if he makes a guideline, one should see it. It seems to flow. But where the debate may lie is in the directives he makes. I know that under another bill the minister makes directives but does not have to make them public. As a matter of fact, we proposed an amendment to a bill that would require the minister to make his directives public after a period of time.

Do you think the minister should make his directives public, and if he does and an amendment were made in that regard, do you think it might make section 9 more palatable to those people who are worried about it?

Mr Morwood: I would concur with that. I would like to see those amendments made public for comment.

The Chair: With that, gentlemen, all members of the committee thank you for taking the time to come before us this afternoon. We appreciate your advice on this particular issue.

1550

RURAL RIGHTS ALLIANCE OF ONTARIO

The Chair: Calling now on representatives from the Rural Rights Alliance of Ontario, please. Good afternoon and welcome.

Mr John McCredie: My name is John McCredie. Thank you for allowing me to speak today on behalf of the Rural Rights Alliance of Ontario. Our group was formed when directly confronted by the threats of large industrialized agriculture in the form of a large hog factory in Howard township. Our concerns have escalated as the problems of these facilities continue not to be addressed by all areas of government.

Our experience is that problems such as agricultural runoff and leaking lagoons are ignored by the Ministry of the Environment. With staff and resources slashed, they, along with the Ministry of Natural Resources, have chosen not to respond when contacted about countless spills. Likewise, local health units have turned a blind eye to direct continual threats to well water and public safety.

Perhaps our greatest frustrations are reserved for those directly responsible for agriculture, the Ontario Ministry of Agriculture, Food and Rural Affairs.

Every violation of the Agricultural Code of Practice meets with the same response from OMAFRA, "They are

just recommendations; they have no power of law." In fact, when we attempted recently to have some of the agricultural code's recommendations imbedded in local township bylaws, the opposition was led by Michael Toombs, an urban interface specialist with OMAFRA, who came down personally to address our Howard township council with his grave concerns. His grave concerns apparently do not exist when winter spreading results in thousands of gallons of pig faeces and urine ending up in our rivers and lakes.

Our experiences with OMAFRA have been farcical. After contacting an OMAFRA agriculture enforcement officer recently to report a pile of rotting pigs, we heard back the next day that the dead stock person for the area had been contacted and the problem taken away, without any attempt at an investigation.

I mention all this to point out a level of frustration that will only become worse with Bill 146. Bill 146 is nothing more or less than an attempt to serve up Ontario to the interests of large, industrialized corporate agriculture. These interests have as their agenda — proven in many other jurisdictions — removal of future nuisance complaints and local control over land use.

The result specifically will be ever-larger, mammoth hog confinement processing facilities. Neighbouring communities will be forced to look on helplessly as the quality of life plummets. Land values will fall and properties will become unsaleable. With each hog producing an average two tons of manure a year, virtual rivers of sewage will proceed through our watercourses and drinking water. Health problems that are only starting to be documented will escalate.

Not participating in the economies of scale, smaller farm producers will find themselves shut out of these vertically integrated systems, which brings us to the lobby efforts of the Ontario Federation of Agriculture. With its propaganda and support of Bill 146, the future of thousands of its paying members will be in jeopardy. Why is it lobbying for changes in a system that has only resulted in 12 hearings before the farm practices board in the last eight years, a system that currently serves the majority of complainants well? The majority of these complainants are farmers, because down the road they know full well the problems of nuisance complaints will increase with large, multimillion-dollar hog factories.

Unfortunately, the neighbours of these facilities will be OFA members, members fighting to survive against the huge economic force of these mega-farms. The OFA's misguided involvement is troubling and should be questioned. The OFA should be fighting for the survival of small and medium-sized producers, those making up the majority of its membership.

Turning to specific problems of Bill 146: No one to date has been able to give us an example of that which is not a normal farm practice. With such a wide scope, all farm practices become normal farm practices and controlling legislation will be deemed restrictive and voided by the normal farm practices board.

An example of the problem of defining a "normal farm practice" already exists in section 15 of the Ontario Environmental Protection Act. It states that offsite pollution is not permitted except in cases of normal farming practice. With prosecutors facing the impossible task of proving that contamination resulted from an abnormal farm practice, this clause is in effect a licence to pollute. The future complainants facing the Farm Practices Protection Board would likewise have to prove abnormal farm practice, a frustrating exercise ultimately not worth making, to the advantage of large animal confinement facilities like hog factories.

This bill also takes away the rights of those suffering beside large animal confinement facilities to sue for an expanded list of nuisances. While trying to protect these mega-hog factories, the effort will ultimately fail. Evidence now is pointing to the fact that such nuisances as odours, flies and dust are serious health problems. Large open pits of animal faeces and urine contain dangerous pathogens that are spread through the fatty acids that produce unbearable smells. Flies, mosquitoes, rats and mice further spread disease to not only humans but livestock. Recent studies show a direct link between proximity to these facilities and intestinal/respiratory diseases. In the United States, studies show an unbelievable 57% of intensified hog confinement workers suffering from chronic bronchitis. Nuisance has turned into a serious life threat.

Many of these nuisances are produced by the uncontrolled practice of dumping manure anywhere at any time in any amount. While everyone is currently scurrying behind smokescreens of nutrient management plans, the fact remains that when manure is spread in ideal conditions, following all the best guidelines, it still leaches into drainage systems and watercourses. Believe me, I'm out there checking. I can tell you through many dozens of water samples we've taken that that's the case.

The result is that barely a week goes by without reports of large-scale contamination of drinking water. In Ontario, the cities of Collingwood, Sault Ste Marie and Thunder Bay have experienced boiled water alerts due to the animal byproduct bacteria *cryptosporidium*. Beaches along all our major lakes are experiencing increased closure due to *E coli* and coliform counts directly linked to agricultural runoff. As we speak, the toxic algae *pfisteria* is proceeding to us up the eastern seaboard, its source the industrialized agricultural nightmare that is North Carolina. This toxin kills fish and produces memory loss and open sores in humans.

How remarkable that while other jurisdictions are addressing these problems directly, we in Ontario have put on the blinders and come up with Bill 146. While ignoring the evidence all around us, we are bowing to lobby efforts. Bill 146 seems to meet the specific agenda of large confinement facilities. The end result will cost every resident of Ontario monetarily, environmentally and physically.

Further attacks on participative contributory democracy come in section 3 of the act in which the minister is given power to appoint all five members of the Farm Practices

Protection Board. He can then ensure that his appointees not veer from his view by forcing them to comply with all the minister's directives, guidelines and policy statements, powers given in section 9. People thought Bill 160 gave too much unaccountable power to ministers.

What is the solution to this mess? Bill 146 must be scrapped, and our group calls for a full moratorium on the building of large-scale agricultural confinement facilities. Then some very serious questions need to be thoroughly addressed.

Some of these questions are: How do these facilities impact local communities? What are the health risks to neighbours and workers? Will there be liability consequences to governments and communities that allow the building of these facilities? Why are there no requirements for liners or covers in manure lagoons? Why do most of these lagoons have inadequate capacity, resulting in winter spreading? Why is animal waste not subject to the waste disposal act when it's far more toxic than human waste, which is? How can we ensure that the vast amounts of manure already being produced stay out of our water courses and aquifers?

Who will be responsible for the monitoring of these facilities that currently go unregulated? Has OMAFRA compromised the majority of farmers in Ontario by promoting corporate industrialized agriculture? What part does the small and medium-sized producer have in the future of Ontario agriculture with ever-dominant mega-farms? How are agricultural jobs affected and what are the economic consequences to communities having these factories?

The problems we in Ontario are starting to experience, problems well documented by our group, will increase exponentially with the adoption of Bill 146. The Rural Rights Alliance of Ontario firmly believes that options for sustainable agriculture exist without going down this disastrous path. On this date, February 19, 1998, we ask you to send this message on our behalf to the Ontario Legislature.

The Chair: Thank you very much. I just want to ask one question. You refer to several exhibits here.

Mr McCredie: Yes. I'm making them available to Donna Bryce and she'll have them for you either tomorrow or Monday.

The Chair: That's excellent. Thank you.

We have about four minutes for each caucus. We begin with the government caucus.

Mr Barrett: You make mention of the uncontrolled practice of dumping manure and the result that barely a week goes by without reports of large-scale contamination of drinking water. The examples you use refer to the cities of Collingwood, Sault Ste Marie and Thunder Bay, where there have been boiled water alerts due to the bacteria cryptosporidium. I know this particular bacteria is also in a number of other more remote rural areas in northern Ontario. Do you have evidence? Is this exhibit 4, where manure has been dumped in northern Ontario and infected these cities?

Mr McCredie: In a recent news report, they called it the beaver disease in I think it was Sault Ste Marie. It's happened in Milwaukee, it's happened out in New Brunswick.

Mr Barrett: That's from beavers in Milwaukee?

Mr McCredie: No, it's from cryptosporidium. The feeling is very much that it's coming from manure, from agricultural runoff. The cryptosporidium can apparently be stored in humans, but it actually is produced in animals. So the source is there.

Mr Barrett: Is there any suggestion it may be from wildlife in the north or in Wisconsin?

Mr McCredie: There has always been wildlife in the north, for a long time and we see these outbreaks literally on a monthly basis now. The feeling is that the changes have come directly from the spreading practices.

Mr Danford: Thank you for your presentation, Mr McCredie. You mentioned the present board and the number of hearings that actually went before the board and how the system has actually worked with the past legislation. Are you saying in some degree that you fellows have been somewhat effective, by your comment earlier?

1600

Mr McCredie: This was one of the questions we were asking: Why do we need this bill right now? I believe there are up to 700 complaints a year registered with the farm practices board. Most of them are resolved through mediators and what not. My understanding is that there are only 12 cases, which Doug has mentioned previously, that have actually gone to the final stages. The obvious question would be, if this is such a horrible problem that needs to be dealt with and it's causing such an uproar in the rural community, why do we need to revamp this thing? It's not like the farm practices board is stuffed with people trying to get in.

It looks very much to me like it's an agenda, and this is what's happened in North Carolina and other places. Years before these things move in, local publications, local lobby groups start preying on the paranoia of farmers, that their right to farm is being persecuted, they're not getting their rights addressed. You get these things all in place and then down the road, when the big guys come in, what do you do when you have a pig farm with 20,000 pigs in it beside it? Do you finally get to complain? At what stage do we in the country, both farmers and non-farmers, get to have a say in things?

Mr Danford: Certainly in the consultation, the updates and improvements to this present bill that we're putting together now for consideration, it was dealt with; with everyone in Ontario, for that matter. Everyone had the opportunity and it certainly —

Mr McCredie: I actually attended —

Mr Danford: I'd like to just finish now. It did reflect the wishes and the opportunity to present their views, from rural people, urban people and certainly the agricultural community. It was dealt with in that fashion, and certainly the rural municipalities, an association of hundreds of

representatives, were part of that process too. It does reflect a balance.

Mr McCredie: I had the opportunity to attend the meeting — I guess there were nine different towns you went to — in Ridgetown. I prepared a five-page submission. I asked George Garland at that meeting if I could present it. He said: "No, you can't. We're going to go into rooms, we're going to put you in a group of 13 people, we're going to give you one question and we'll have one person come out after two hours and present the answer to the question." Our question I believe was, should costs be assessed to people to bring up complaints?

In fact, at that meeting I remarked that most of the questions were directly related to the OFA right to farm and the model farm bill from the OFA. This was in no way an open consultation. In our group, where we had some people mentioning different facts, at the end of the three hours the presenter did not give everybody's point of view. That was not an open consultation at all. In fact, my speech was never read or submitted.

Mr Danford: You obviously are referring to a specific meeting which I wasn't present for, so I'm certainly not going to the point with you.

Mr McCredie: Mr Garland told me that I couldn't speak at this one because nobody else could speak at the other ones.

Mr Danford: If we followed all your suggestions that you've put in here, how would you foresee agricultural activities occurring in the province of Ontario, and more importantly, because it affects every person in the province of Ontario affecting the cost of food, how would you foresee that, if you could share it briefly? I know I'm probably taking a little extra time from Mr Hoy.

The Chair: Yes, you are.

Mr Danford: If you'd comment, I'd appreciate it.

Mr McCredie: This isn't a new phenomenon. We're not the first ones to have these things. North Carolina had these 15, 10 years ago. There have been problems in Illinois, Iowa. You can go on the Internet. There are two great sites: Families Against Rural Messes and Iowa Confinement Sites. They've got hundreds of articles. Families Against Rural Messes even gave a breakdown on what each state was doing in the United States. It varies from moratoriums to different bylaws. In most of the jurisdictions where they have proceeded the state gets the powers and now the local people are trying to get them back. I say let's go down there and see what's going on, see what the fallout of this is. Let's not just jump into this. The fact is that if we're the last people to have the loose regulations and the open view of things that seems to be happening, then they're going to come here en masse.

Mr Hoy: Thank you very much for your presentation this afternoon. You asked the question, what is a normal farm practice and could we list those? The ministry lists those. That's perhaps a very fair question to ask. However, I still think the board will need some latitude and I'll give you an example, because one can never foresee the future and decide what is normal and not normal, not having run into a particular instance.

My example is that the board was asked at one time to decide whether the burning of manure was normal or not. I would never have envisioned that someone would try to burn manure. It just wouldn't have crossed my mind and therefore it wouldn't have been on the list, if I was making it, of what's normal and not normal. I didn't know that you could burn manure, let alone even think about it. So it was found to be not a normal practice. I think the board will need some latitude to take care of what we couldn't envision as being so abnormal as the burning of manure.

The other point: I agree with you that the Ministry of Environment has undergone some tremendous changes. Even before the cuts, they were unable to enforce adequately the ruling by the board that this burning of manure should cease. The Ministry of the Environment's been cut by approximately 40%. I was told quite some months ago that the morale was low and people had a tendency to perhaps not be as diligent as they should be, and that's not the way the ministry should be operating.

My point is that all of the best laws — the Environmental Protection Act, the Pesticides Act, the Health Protection and Promotion Act and the Ontario Water Resources Act and this bill — will fail if we don't have enforcement. I agree with you that the Ministry of the Environment is another place the government should be looking at part and parcel with all that we have discussed today.

Mr McCredie: We are totally frustrated, dealing at the local level, with enforcement. Just to give an indication, the farm across from us was charged back in May of this year with pollution. Since that time, they've spread an additional four times on the 50 acres of land around them. That makes a total of 14 spreadings in a two-year period.

If you can guarantee the people of that community that that water will not get into their system, if these people are going to continue spreading on the same parcel of land every two months — you can't do it. They're going to have contaminated well water. It mightn't be next year, it might be two years, but eventually they will, and that's what we're faced with: total frustration.

Ms Churley: Thank you very much for your presentation. Are you a farmer?

Mr McCredie: No.

Ms Churley: Have you lived in the area?

Mr McCredie: I lived in Denfield, in London, up till I was about 25, on a farm. My father is a part-time farmer.

Ms Churley: So you come from a farm community.

Mr McCredie: Yes.

Ms Churley: One of the things that I'm finding, I suppose, today during the hearings and letters I've received is that the minister said, and some members I'm going to quote the minister from an article from the Western Producer from July 1997: "The importance of the food-producing industry is such that we are having an increasing number of disputes between people who love the serenity of the country but who also happened to sign the agreement of purchase when there wasn't manure being spread and crops being harvested and dried."

He then went on to say: "The bill was drafted, in part, with proposals for larger livestock and hog operations in mind. In the concentrated livestock production that was seen coming in, hog operations particularly, odours that emanate are not always pleasant, but that is part of the normal business of that sector. This act will give some comfort to those producers making the investment and also help our municipalities which are becoming less agriculturally oriented by giving them guidelines on what normal practices are."

My concern is that I was being led to believe that a large part of this bill was to deal with the problems between people moving from urban areas into rural areas. I totally agree with that; I think it's wrong for people from urban areas to move into farm country and then start demanding that farmers change their habits. But what I'm learning and what I'm hearing from a lot of people is that really is not what's happening here, that it's —

Mr McCredie: If that was the case, then I think the proportion of complaints registered to the farm practices board would be from urban people moving to the country. In fact, that's just an excuse for bringing up this whole right-to-farm business. It's got nothing to do with what we actually see, and certainly in our jurisdiction it's not the people, who are evenly distributed between farmers, retired people and people who have separate lots.

Ms Churley: Again, I'm trying to get clarification, because my impression has been, and you know there is all-party support for this bill — I'll be putting forward some amendments. The government members have not seen fit in the past in other committees to pass my amendments, but you never know. Assuming that the bill will pass, I guess what I'm concerned about is I was under the impression that overall the farm community supported this bill. I'm just trying to get a handle on who's supporting it and who isn't.

Mr McCredie: You heard from PROTECT this morning and those are mostly farm people. I brought up the whole issue of small versus big, and in that area they've realized the situation that their livelihood and their future are at threat from these operations. I just have to leave it with what they said this morning.

The Chair: On that note, Mr McCredie, on behalf of all members of the committee, we appreciate your bringing your perspective before us this afternoon. Thank you again.

Colleagues, that's our last presentation of the afternoon. I would like to remind everyone that we have agreement to file amendments with the clerk by 5 pm on February 26. On that note, we will be adjourned until March 10 at Queen's Park for clause-by-clause review of this bill.

The committee adjourned at 1612.

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Mardi 10 mars 1998

Standing committee on resources development

Farming and Food Production
Protection Act, 1997

Comité permanent du développement des ressources

Loi de 1997 sur la protection
de l'agriculture
et de la production alimentaire



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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON
RESOURCES DEVELOPMENTCOMITÉ PERMANENT DU
DÉVELOPPEMENT DES RESSOURCES

Tuesday 10 March 1998

Mardi 10 mars 1998

*The committee met at 1002 in committee room 1.*FARMING AND FOOD PRODUCTION
PROTECTION ACT, 1997LOI DE 1997 SUR LA PROTECTION
DE L'AGRICULTURE
ET DE LA PRODUCTION ALIMENTAIRE

Consideration of Bill 146, An Act to protect Farming and Food Production / Projet de loi 146, Loi protégeant l'agriculture et la production alimentaire.

The Chair (Mrs Brenda Elliott): Good morning, colleagues. We're called together this morning as the resources development committee for the purposes of clause-by-clause consideration of Bill 146, An Act to protect Farming and Food Production.

Are there any questions, comments or amendments to the bill, and if so, to what section?

Ms Marilyn Churley (Riverdale): I have an amendment. I may need my glasses here; just a second.

Mr Marcel Beaubien (Lambton): Do you want mine, Marilyn?

Ms Churley: Actually, I just might. I forgot mine.

Mr Doug Galt (Northumberland): Madam Chair, it looks like a great bill. I think we can pass it and get on with the day.

Ms Churley: The deer and elk people wouldn't like that.

Interjection.

Ms Churley: Yes, I can, actually. I move that clause 10(a) of the bill be struck out.

Mr Ted Chudleigh (Halton North): That's a motion that has already been presented by the NDP.

Ms Churley: Yes, I just moved it.

The Chair: Normally we would go through amendments in the order of the bill. In order to stand down amendments that would come prior to that amendment, we would have to have unanimous consent to do so. There is an NDP motion to subsection 1(1). Donna is just going to bring you over —

Ms Churley: Yes, mine are out of order. Sorry about that.

The Chair: That's okay.

The clerk has a set, and I think everyone should have these, that are organized in order as they appear in the bill.

Ms Churley: That's very helpful. Thank you. I just noticed mine are out of order.

Mr Chudleigh: Does this mean that you've withdrawn your motion on subsection 1(2), or 6(1)?

Ms Churley: Just give me a moment here to get organized.

Mr Chudleigh: Having jumped all the way to 10, I wondered if the other two had been withdrawn.

Ms Churley: Oh, will you just be quiet.

Mr Chudleigh: I'm sorry, are we moving too fast? Apparently we're moving too fast for the NDP.

The Chair: Do you wish to withdraw that first amendment motion and begin afresh?

Ms Churley: Yes.

Mr Chudleigh: Apparently we're moving too fast for the NDP.

Ms Churley: What I should be starting with here is subsection 1(1), the definition of "normal farm practice." We're on track now.

I move that the definition of "normal farm practice" in subsection 1(1) of the bill be struck out and the following substituted:

"'normal farm practice' means a practice that,

"(a) is conducted in a manner consistent with environmental soundness and proper and acceptable customs and standards as established and followed by similar agricultural operations under similar circumstances including, where applicable, the codes of practice filed with the ministry of the minister for the care and handling of poultry from hatchery to processing plant, mink, special fed veal calves, ranched fox, dairy cattle, beef cattle and farm animals, or,

"(b) makes use of innovative technology in a manner consistent with environmental soundness and proper advanced farm management practices including, where applicable, the codes of practice mentioned in clause (a)."

The Chair: Did you wish to comment on that amendment?

Ms Churley: I do. I just wanted to make sure that in the context of this bill — people will recall that in the committee hearings, and I only attended one of those hearings, there was quite a bit of concern expressed about the definition of "normal farm practice." In particular, concerns were expressed that environmental problems could be overlooked and would be overlooked if there was not a more consistent and clear definition right within the

bill, within this clause, that redefines what normal farm practice is.

I hope the government members will support this, particularly the parliamentary assistant to the Minister of Environment. I believe he needs to set an example here today.

Mr Harry Danford (Hastings-Peterborough): I think there are a number of words added here during your motion. There are two areas I want to discuss a little further. You mentioned environmental soundness and certainly codes of practice. I think as the bill is written you will find there is ample opportunity for the environment to be directly protected through the acts that are already included, that have to be addressed in anything that comes before the normal farm practices board.

Certainly as to the codes of practice, when we were doing our consultation, it was very evident from the stakeholders that they felt it was not necessary to put codes of practice in, that all consideration had to be given to all types of farming which were considered normal and in similar situations. I felt that was a better definition than trying to restrict it to codes of practice. While codes of practice would be considered by the board, they didn't want that the only standard that would be used.

I think for those reasons that the bill as it is written and presented does cover those avenues quite well and I'd certainly be opposed to adding this amendment.

Mr Chudleigh: I would ask a question. The list of animals that has been listed there is incomplete in the extreme as far as agriculture in Ontario is concerned. I wonder if that means that animals that are not listed there are not covered under the act.

Ms Churley: I'd certainly be open to amendments to my amendment to include that.

Mr Chudleigh: The amendment is somewhat incomplete, then.

Ms Churley: If you were willing to support this, I'd be very happy to — for instance, I believe you're right that it doesn't include pork and sheep, and there may be others that I'd be happy to include if you were to support this amendment.

The Chair: Did you want to add further to that, Mr Chudleigh?

Mr Chudleigh: No. I just think the amendment is poorly thought out and incomplete. I don't think it's supportable.

1010

Mr Beaubien: My comment would be directed at Ms Churley. If she's really concerned with environmental soundness and is concerned about the environment as a whole, as Mr Chudleigh has pointed out, the list of animals is incomplete, but furthermore there is no mention in the amendment with regard to cash croppers, which can impact substantially on the environment, depending on the type of procedures and practices they're using during their farming operation.

I don't know why the amendment proposed by the NDP is there, because if we look at the definition under subsection 1(1) of the bill as it stands today, it's certainly more

thorough, more complete. As Mr Danford pointed out, the basis of the bill is that health, safety and the environment will not be impacted, and I emphasize the words "will not be impacted." Just introducing a halfhearted motion doesn't cut it with me.

Ms Churley: It's very clear that the government members don't want to support this kind of amendment. To sit there and quibble with the content of the motion is — how can I say this in a parliamentary way?

Mr Chudleigh: What's in a motion other than content?

Ms Churley: The intent of the motion; to make excuses and say you can't support it, because it's incomplete, it's badly written, half-formed.

Mr Chudleigh: It's already covered in the bill.

Ms Churley: I have the floor.

Mr Chudleigh: It's already covered in the bill.

The Chair: Order, please. Ms Churley, please.

Ms Churley: Thank you, Madam Chair. To pretend you don't want to support this simply because it's badly written, if you have ideas for improving this amendment, if that is the concern of the government members, I said I'd be happy to accept amendments to amendments. Let's not be silly here. You have no intention of supporting this, because you don't support the concept of making environmental protection an important aspect of this bill. You know, from the hearings you attended, that there was a great deal of concern expressed about the likelihood of this bill opening up the door to some very bad environmental practices. There were grave concerns expressed, in particular about massive industrial pig farming. This was a real issue expressed not just by the so-called special interest environmentalists but by a lot of the small farmers. I believe this amendment I'm making today is a reflection of the concerns we all heard.

Mr Galt: To respond to the concerns of the NDP, I'd point out subsection 2(5): "This act is subject to the Environmental Protection Act, the Pesticides Act and the Ontario Water Resources Act." That isn't just today, in the present EPA and the other acts; it will go on into the future, recognizing any changes in those acts. So I feel very comfortable that the environment will be protected. I simply draw to the attention of Ms Churley that this is in here, that it's well covered, and I think it has been well written. As the Minister of Environment sees need to change this particular act, then the act we're dealing with, under Bill 146, will reflect those changes. It is simply superseded by those acts. I really don't understand the concern the NDP is expressing at this time.

Ms Churley: Just for the record here, let me say that the concerns expressed by people about the environmental aspects of this bill were very clear, and let me be very clear, that the Environmental Protection Act as it now stands will not be able to fill the gaps that are being created by this bill. Furthermore, let me say that the cuts and the deregulation made to the Ministry of Environment by this government mean there is practically no real monitoring and enforcement going on in Ontario right now.

Mr Galt: Wrong.

Ms Churley: To say that you can now rely on just the Environmental Protection Act and the Pesticides Act, and all of that is going to solve the problem, it isn't; you know it, and I know it, just for the record.

Mr Galt: I think the NDP is indicating that the only way to solve things is by throwing money at them. This government does not believe in that philosophy. I really object to her comment that just because a few dollars have been cut and a few people have been laid off, therefore the environment isn't being protected. Certainly priorities have been established, and the environment is being protected. If they think the EPA isn't a satisfactory act, they should have changed it during the five years they were in government rather than sitting there in the last year not doing anything. They had plenty of time to change the EPA.

Mr Danford: To the member who is having quite a concern about the environment — in fact, she said the environment would be overlooked — I just want to reassure her that through the consultation, certainly the farm groups, all those people who are involved in this industry, were the first to recognize that they wanted all those acts — the environmental protection, the pesticides and all those other acts that are listed in the bill — to take precedence and to be in place to control any concerns that come up under those particular parts. They were quite comfortable, I might say, having them included in this act, as we have before. They do control and they do cover those concerns that may arise and fall within those acts. So I want to assure her that the environment isn't and never was intended to be overlooked and that these acts, in the opinion of the majority of the people, certainly do cover that avenue.

Ms Churley: I just want to make it clear that it wasn't the Environmental Protection Act that I was criticizing. I was criticizing the lack of resources to be able to enforce that act. Let's be very clear on that. The Environmental Protection Act is a good act, but legislation is only as good as the resources and the people who can make sure that the content and the intent of the act is followed. The problem is, the resources under this government are not there to do so. We're seeing that in all kinds of other areas in terms of environmental protection in the province right now.

Mr Galt: I would certainly like to point out to the member that if the debt hadn't been increased by 100%, maybe we'd have the resources today to put into the Ministry of Environment and many of the other ministries. It was their government that doubled the debt and doubled the cost of interest, and consequently the dollars aren't there. They've got to be found somewhere. The budget has to be balanced, or down the road we just don't have dollars for any program, whether it be for health or social services or environment.

Ms Churley: At least you're admitting —

Mr Galt: That's where you were taking us very quickly.

Ms Churley: — that you're not putting the dollars into environmental protection.

The Chair: Order. Dr Galt has the floor.

Mr Galt: I've said enough. She knows where it's at.

Mr Beaubien: I have one last comment. My comment will be directed at Ms Churley. I strongly disagree, with regard to the cut, that there's no monitoring with regard to the environment, because the monitoring is there. I ask you, if you could buy a car at a car lot and buy the same car at a different car lot for \$1,000 less — it's still the same car; it's just that you made a better deal. This government has modified the ministry, no doubt about it, but that doesn't mean you cannot do a little bit more with less, and that's what this government is doing. When we look at the effluents or whatever is happening with the environment, I'll compare our standards with your standards when you were in government.

The Chair: Any further discussion on this amendment? Seeing none, I'll put the question on the motion: Shall this amendment carry? All those in favour? All those opposed? The amendment is lost.

Ms Churley: Madam Chair, I wanted a recorded vote on that and I forgot to ask.

The Chair: Sorry, you have to call for that before the —

Ms Churley: Can I have unanimous consent to redo it on a recorded vote?

Mr Galt: No, you're wasting time.

The Chair: Unanimous consent is not forthcoming.

The next amendment before us is a government amendment.

Mr Danford: The next amendment deals with clause 1(2)(b).

I move that clause 1(2)(b) of the bill be amended by adding the following subclause:

"(iv.1) deer and elk."

The Chair: Did you wish to comment on that?

Mr Danford: I believe we heard presentations during our committee meetings about the need to distinguish deer and elk farmers. They felt there was a need to be recognized as not associated with game animals and to clarify that position. For that reason, we have decided to add that to this section.

1020

Ms Churley: I will support this amendment. I have a similar one and I believe there is a Liberal motion. This is one that we can all support. But may I say that this is an example of why, when a government comes forward with sweeping changes to legislation, it is important to have public hearings. There was considerable complaint from some government members about the NDP forcing this bill to limited, but yes, public hearings. The consensus among government members seemed to be: "Everybody supports this bill. We don't need to go out and speak to the community about it."

I would say this is one important reason we need to be going out to the community, discussing the bill in detail and finding out where the gaps are. Very clearly, this was a very important one which got overlooked. We managed to identify that and we all support it, and it's a good thing

that we were out there in the community and found out about this.

Mr John C. Cleary (Cornwall): I know this is a good amendment. This issue has been before us for a long time and I know we will be supporting it and glad to do so.

Mr Galt: I'd like to point out one item and then ask a question of the parliamentary assistant. I didn't get an opportunity earlier. Under subclause 1(2)(b)(vi) it does state "any additional animals, birds or fish prescribed by the minister," so they can be added as necessary as we go down the road.

But there was some discussion about whether it should state "deer and elk" or "Cervidae" as a species. For what reason did we go to "deer and elk" versus "Cervidae"? I'm easy one way or the other. I'm just curious about the rationale for the more common name rather than the species.

Mr Danford: You're very correct, Mr Galt. Certainly subclause (vi) does say "any additional animals" and it's there for a reason. There needs to be flexibility. We have an industry that's rapidly changing and new things happening all along the way, and there needs to be that flexibility which we have designed in this bill.

But there was the feeling that there needed to be that distinction of deer and elk so there was not any confusion about whether they were game animals or whether they were considered to be under livestock or whatever. We have identified some other things there and we felt there was a need in this particular case to have "deer and elk" specifically. Otherwise, it would have gone, as you just suggested, under a general aspect. But we did feel "deer and elk" was more appropriate, given the request and the discussion with our legal counsel.

Mr Galt: What about the terminology "Cervidae" versus "deer and elk"?

Mr Danford: We could have used that. In our legal opinion we chose to go with "deer and elk," very simply. I think it more clearly defines the request and I think that's the basis of the decision that was made.

The Chair: Is there any further discussion on this amendment? Seeing none, I will put the question on the motion. Shall this amendment carry? All those in favour? All those opposed? The amendment carries.

The next amendment is a Liberal amendment.

Mr Cleary: I move that subclause 1(2)(b)(v) of the bill be struck out and the following substituted:

"game birds and game animals, including deer and elk, or".

With the way things are changing in Ontario, with many adding value and involved in that kind of agriculture, we felt that should be included in the bill.

The Chair: Mr Cleary, this is almost identical to the motion before and almost identical to the wording of the bill itself, saying, "game animals and birds." Seeing that we've already approved the amendment before, do you wish to withdraw it? It would be considered redundant. The wording in the bill as it stands now is "game animals and birds," and we've just done "deer and elk" in the previous amendment.

Mr Cleary: Okay.

The Chair: Okay? It's withdrawn then. Thank you. Your point of support is certainly noted.

The next amendment is an NDP motion.

Ms Churley: Which I will withdraw.

The Chair: Also withdrawn.

Ms Churley: It's similar to the government motion.

The Chair: We then move to the next motion, also an NDP motion.

Ms Churley: I move that clause 1(2)(b) of the bill be amended by adding "or" at the end of subclause (iv), by striking out "or" at the end of subclause (v) and by striking out subclause (vi).

To speak briefly to this, it relates to concerns about ministerial power to add to definitions such as "agricultural operation," that sort of thing, without legislating amendments. Basically what's going on throughout this whole section, really clauses 1(2)(b), (c), (i), (j) and (k), is taking out references to "as prescribed by the minister." This is reacting to concerns expressed by some and concerns that I myself have about giving the minister too much power. I believe that these things should be done through legislated amendments.

Mr Danford: I would like to bring to the members' understanding that there was a purpose for having that additional clause in there. I'll probably be referring to this a number of times through the process today, because it was clearly identified to us through the stakeholder groups that there needed to be flexibility. This industry, as I've said already, is continuously changing. There are new types of livestock in all cases coming on board and new types of crops and everything that pertains to this bill. We do need to have that flexibility and not have to go back and deal with legislation every time something new comes along.

It certainly would create a great deal more red tape, as we have known, and it's not advisable. We feel it's necessary for that section to remain in the bill. I will be opposing, based on the flexibility that's necessary.

Mr John Hastings (Etobicoke-Rexdale): I think you also need to consider it in terms of new developments in farming and innovative technology, particularly with respect to biotechnology. Just imagine if we had to come back and deal with those issues every time a problem arose in that particular area and the minister would not have the flexibility to deal with the issues that arise in these new practices.

I think the section supports sensitivity to development of new crops. That whole area is moving so quickly. This place moves in the reverse mode: so slowly. That's why this particular clause is absolutely essential to respond to new farming techniques and developments.

The Chair: Further discussion or comment? Seeing none, I will put the question on the motion: Shall this amendment carry? All those in favour of this amendment?

Ms Churley: Oh, thank you.

The Chair: Let's just check. All those in favour?

Ms Churley: We won that one.

Interjections.

The Chair: All right. All those opposed? The amendment is lost.

Ms Churley: Madam Chair, on a point of order: You called the question and these people clearly raised their hands in support.

Mr Galt: Just one.

Ms Churley: No, two. I saw them. Then you gave them the opportunity to revote. I clearly saw them raise their hands. I think I have a legitimate point of order. If they want to ask for unanimous consent to do it over again, that's possible.

The Chair: No. I think —

Ms Churley: I clearly saw them vote in favour of that motion. I honestly don't understand, within the framework of how we operate here, just because as the Chair — and you're supposed to be neutral — you supposed that they made a mistake and allowed them right away to vote again.

Mr Chudleigh: It's going to be a long day.

Ms Churley: They voted for the motion. We all saw it.

The Chair: I think it is very clear how the people wanted to vote on that motion and I believe that motion is lost.

Ms Churley: Madam Chair, if I may say —

The Chair: If you would like to redo it, we can ask for unanimous consent to redo the motion. Do I have unanimous consent to ask for a recount on this vote?

Mr Galt: Absolutely.

The Chair: All right, then. We'll have a new vote on this particular motion. It's the NDP motion on clause 1(2)(b). I call the question on this motion. Shall this amendment carry?

Ms Churley: Actually, no, you don't have my consent.

The Chair: The motion is then lost. We move to the next amendment, also an NDP amendment.

Mr Beaubien: For the record, if we were to take Ms Churley's premise that two of the members voted, there were still four members who voted against the so-called three that she said, for the record.

1030

The Chair: Moving on, this is an NDP amendment before us.

Ms Churley: I move that clause 1(2)(c) of the bill be amended by striking out "and any additional agricultural crops prescribed by the minister" in the fourth and fifth lines. It's the same reasoning as the previous amendment.

The Chair: I'm sorry, could I ask you to reread that amendment, please.

Ms Churley: I'm in the right order, am I?

The Chair: I'm not sure it matched what is before us.

Ms Churley: I read clause 1(2)(c). Is that correct?

I move that clause 1(2)(c) of the bill be amended by striking out "and any additional agricultural crops prescribed by the minister" in the fourth and fifth lines.

The Chair: Thank you. Do you wish to discuss this motion?

Ms Churley: It's the same reasons as my previous reasons, concern about giving a minister, one single individual, this kind of power.

May I add that I'm supportive of the farm community being innovative. I agree that the technology is moving very quickly, but I think we also know that when you venture into new areas, particularly around biotechnology, there can be some very serious implications to the farm community and indeed to food production in our province. I'm certainly supportive of the advancements in biotechnology, but I believe that it is incumbent upon the government to keep a very close eye on the advancement of biotechnology given the possible negative implications which could happen to the production of food in our province.

It's simply a concern that I have around one individual, from any government of any political stripe, not just a Tory government but from a Liberal or an NDP or any other party. I believe it's important that we keep one individual from having too much power. That's why we have cabinet, that's why we have the ability to make legislative amendments, so that it's not happening behind closed doors, out of mind, out of sight.

Mr Galt: I was just going to use the example that roughly 10 days ago the federal government made it legal that you can now grow hemp, as one example of a new crop that's out there. I'm not sure if I'm exactly on, but as an example anyway, here is a crop that we haven't been allowed to grow for 60-some years. It's been illegal because of, I gather, recognizing the difference between hemp and marijuana and the level of drug that is present in it. Now we have a new crop that's legal to grow, a tremendous fibre. I wouldn't want to see the farmers hamstrung, not being able to grow it until we would change our farm practices legislation. It's an example, anyway, of recognizing the changes that are happening currently. We certainly see the number of changes in game animals that are being farmed, fish etc, and the same with crops. Therefore, I could not support this particular amendment.

Mr Danford: I just want to say to the member, I appreciate her support and the recognition of biotechnology, because it does have to be included. It certainly is going to happen and it is happening. I think if we were to not have the flexibility, again, because I use that word, for the minister to adopt some of these things to be considered if normal farm practices are challenged — all the things have to be allowed under that category. We would deny some particular crops in this case, as we're debating here, if that clause were not allowed to be in part of this bill. For that reason we think it's imperative that it stay there, because it is truly important that every one can be used on the same basis if they have to apply to the Normal Farm Practices Board.

Mr Hastings: I would have to respond that it's not an issue of more power to a minister, because if you look at most acts passed through committee on any issue, you would have wording, perhaps not exactly similar to the wording in (k) but pertaining to the intent of what a minister can do, and such wording you'll find in many acts passed by all sorts of governments of many political flavours, prescribing by regulation. That's a common standard phraseology and methodology that's used. This

one simply reflects that same kind of intent and also adds a sensitivity to ongoing and new developments that are occurring in agrifoods.

The Chair: Any further discussion or comment on this amendment? Seeing none then, I put the question on this motion. Shall this amendment carry?

All those in favour? All those opposed. This amendment is lost.

One more amendment on section 1. This is also an NDP motion.

Ms Churley: I move that subsection 1(2) of the bill be amended by adding "and" at the end of clause (i), by striking out "and" at the end of clause (j) and by striking out clause (k). Same reasons.

The Chair: Further discussion or comment? Seeing none, I put the question on the motion: Shall this amendment carry? All those in favour? All those opposed? The amendment is lost.

Seeing no further amendments to section 1, shall section 1, as amended, carry? All those in favour? All those opposed? Carried.

Moving now to section 2, we have a motion before us that is an NDP motion.

Ms Churley: I move that subsections 2(1) and (2) of the bill be struck out and the following substituted:

"When farmer not liable

"(1) A farmer is not liable in nuisance to any person for a disturbance resulting from an agricultural operation carried on as a normal farm practice unless there is a charge related to the disturbance pending against the farmer.

"Injunctions

"(2) No court shall issue an injunction or other order that prohibits a farmer from carrying on the agricultural operation because it causes or creates a disturbance unless there is a charge related to the disturbance pending against the farmer."

Briefly, this amendment is an attempt to address concern expressed that you heard as well, to try to balance the rights of an individual to protect their property interests and to farm, but to also preserve environmental quality in the face of improper farm practices. There's concern that, the way it's worded now, that could be restricted, so we've reworked this section to ensure that if a concern is serious enough — criminal charges have been laid, for instance — the person would be able to pursue civil remedies. The new wording here would ensure that in cases where there is very serious concern the person wouldn't be restricted from pursuing civil remedies.

I do hope the members will support this.

Mr Beaubien: I'm not clear with regard to the NDP motion, number 8. Am I correct in taking it that if a person is charged, without being convicted, the person is prohibited from doing the practice? Since when are we guilty when we are charged? Furthermore, under "Injunctions," (2), since when does the government give the courts direction? "No court shall issue an injunction...."

From a legal point of view, I don't think you're standing on very firm ground here. I'm not a lawyer, but I think

this motion is very poorly thought out, first of all, because I think we assume that as soon as you're charged, you're guilty. And now we're going to give directions to the courts? Am I correct in assuming that?

1040

Ms Churley: No, you're not correct in assuming that. What this motion is addressing is people's civil rights. You were on most of the committee hearings, were you not? Oh, you weren't. There was concern expressed about this from some groups and from some of the smaller family farms, that because of the wording of this particular section — and I think there was overall support for the whole issue around urban people moving into rural areas and then, after moving in and settling in, starting to — it's quite true it's been a problem and everybody concedes that — cause trouble, going to municipal councils on what they consider to be nuisances, noises and normal farm practices. We all support changes to that so that people cannot move into rural areas and do that, but there was concern that the wording is too sweeping and that there could be some serious environmental problems.

There was concern expressed around pig farming, for instance, large industrial farming —

Mr Beaubien: I can see your concern.

Ms Churley: — and that people's civil rights would be completely overlooked, because under this bill they would not have any redress to the courts whatsoever. That was the problem and is what this is attempting to address here. If you have a better way to word it, I'm happy to —

Mr Beaubien: Like I said, I'm not a lawyer and I'm not going to try to word this, but I think your motion is very poorly worded, because as a layperson I would hate to be assumed guilty once I'm charged.

Ms Churley: But that's not what this is saying.

Mr Beaubien: That's what the motion says. You're giving the courts direction, the way I read it: "No court shall issue an injunction...."

The Chair: If I may interrupt for just a moment, perhaps our legislative counsel might give us some thoughts on this.

Ms Churley: Sure.

Mr Michael Wood: I wonder if I could assist here. I'd just like to point out that the only difference between the wording proposed by the NDP for subsections 2(1) and (2) and the wording for 2(1) and (2) presently in the bill is the addition at the end of each subsection of the phrase "unless there is a charge related to the disturbance pending against the farmer." In order to deal with subsections 2(1) and (2) of the bill it was necessary to preserve the context of the existing bill and in fact what this does is provide an exception, because the bill right now provides a bar to bringing an action and damages under subsection (1) and making an application for injunction or other order from the court in subsection (2). What the NDP motion does is to say that the bar is lifted when there is a charge related to the disturbance pending against the owner. So it is not the case under the NDP motion that the bill would be giving direction to the court; it's just providing an

exception to the bar against bringing a civil action or applying for injunction or order.

Mr Beaubien: If we're concerned about human rights and civil rights and everything else, that means that if I'm not too friendly with a police officer and I'm charged, then I'm really in trouble, according to this motion. The interpretation is even worse than I thought it was. As soon as a charge is laid, the farmer or whoever the charge is laid against is in major trouble. So I certainly could not support that particular motion.

The Chair: Mr Danford. Do you —

Ms Churley: Forget it. He doesn't get it.

Mr Danford: Does that mean Ms Churley does not want to hear my comment?

Ms Churley: Well, I'll see if you get it.

Mr Danford: The purpose of the bill from the very beginning is to allow an opportunity to determine when there is a concern presented whether it's normal farm practice or not, very simply not. Not to have exceptions from any of those other acts that we've shown here — they take precedence over it, there's no doubt about that — but this is an avenue to be dealt with by a board that determines whether it's normal farm practice or not. Should it not be considered normal farm practice in their determination, then there is certainly no reason it couldn't go to civil. It does not limit it in that way, but it does provide an avenue to be dealt with at first hand by this level to determine if it's normal and would have some bearing on the next step if they chose to go that far. It's to try to keep everything in the form of a nuisance out of civil courts. That was the whole purpose of the bill from the very beginning, not just this bill but the bill prior to it.

Ms Churley: As I said when I spoke to this section earlier, I support the move to try to protect farmers from having these kinds of nuisances that were very clearly identified during the committee hearings and before. I just feel that this amendment is needed because of my concerns about what is considered within this bill and in the definition as normal farm practices. That amendment wasn't accepted. In my view it's going too far and it may be taking away people's civil rights in situations where there is — I know you don't agree.

Mr Danford: I don't.

Ms Churley: I appreciate your explanation of what you are attempting to do. I just don't agree. I think it's closing the door too much on people's civil rights.

Mr Danford: It doesn't stop anyone from laying a charge.

Ms Churley: I understand.

The Chair: Further discussion and comments? Seeing none, I put the question on this motion: Shall this amendment carry? All those in favour? All those opposed? The motion is lost.

Seeing no further amendments to section 2, shall section 2 carry? All those in favour? All those opposed? It carries.

Moving on to section 3, we have a Liberal amendment before us.

Mr Cleary: I move that subsection 3(1) of the bill be amended by striking out "consisting of not more than five members appointed by the minister" in the second and third lines.

The reason is that, maybe not at the present time, but I know that committees do have a chance to grow from time to time, and we feel there shouldn't be more than five members.

Mr Galt: Am I reading something incorrectly? Mine says "not less than" five members. You're saying to strike out "not more than"?

Mr Cleary: You say "not less"; we're saying "not more."

Mr Galt: You're saying by striking it out?

Mr Cleary: Yes, not more than five members.

Mr Galt: But what's there says "not less than." What you've written to strike out is different than what's in the bill. Am I on the wrong line?

Mr Cleary: The bill says "consisting of not less than five members" and we're saying "consisting of not more than five members."

Mr Galt: But you're saying strike it out in your motion: "I move that subsection 3(1) of the bill be amended by striking out...." Am I reading what you said incorrectly? What you mean is to strike out what's there and then add this —

The Chair: Are we going to amend that slightly then, withdraw it and re-move it perhaps?

Mr Cleary: Okay. Thank you.

The Chair: All right. I think that's what is about to happen; it will be withdrawn and re-moved.

Mr Galt: If it's legal, I'm willing to let him reword it.

Mr Cleary: The bill says "not less than five members."

Ms Churley: Re-read your motion as it's worded now.

Mr Cleary: I move that subsection 3(1) of the bill be amended by striking out "consisting of not" —

Interjection: "Less."

Mr Cleary: That's what the bill says. We don't want any more than —

Mr Galt: You want it replaced with your statement, rather than striking out.

Ms Churley: "Consisting of not less than five members."

Mr Cleary: Well, that's what it says now. In other words, we don't want —

Mr Galt: I think what you're trying to say is that you want your recommendation replaced.

Mr Danford: I think we better let Mr Cleary just clarify it. I'm getting confused here about which he wants.

Ms Churley: I move that we take a two-minute recess.

The Chair: There's a motion for a two-minute recess. All those in favour? We're recessed for two minutes.

The committee recessed from 1049 to 1057.

The Chair: Colleagues, we come to order again. We think we have this sorted out here and we'll go back to Mr Cleary.

Mr Cleary: Madam Chair, I would like to withdraw my previous statement and I would like to move that sub-

section 3 of the bill be amended by striking out "consisting of not less than five members appointed by the minister" in the second and third lines.

The Chair: This is the wording that is in the bill at this point in time. Further questions or comments? Did you want to elaborate on this, Mr Cleary?

Mr Cleary: No. I am just glad that we got it sorted out. We know where the problems were and we'll try to do better the rest of the day.

The Chair: Other questions or comments on this amendment?

Mr Danford: So he's just withdrawing it, is that the idea?

The Chair: No. We do have to vote on it.

Mr Danford: How do you want to leave it then? I think everyone needs to be clear on this.

The Chair: Yes. Colleagues, what has occurred here is it appears we have a drafting error that has been incorrectly copied from the bill essentially, because the bill says "not less than." Mr Cleary has a motion on the floor asking that this section be removed from the bill, striking it out. He has explained why. Are there any further questions or comments?

Mr Galt: If that was to pass, then in my understanding the bill would read, "The Farm Practices Protection Board is continued under the name Normal Farm Practices....," and we would scratch out "consisting of not less than five members appointed by the minister." Then the English isn't very good.

The Chair: To be fair, there is another amendment that comes up next that I believe addresses this change.

Mr Galt: Okay.

The Chair: Correct? I'm not putting words in your mouth?

Mr Cleary: You're not putting words in my mouth.

The Chair: Any further questions or comments on this section? The request is that section of the bill then is to be struck out. That's the motion. I'm going to call for a vote on that motion. All those in favour? All those opposed? It's lost.

That means that the next amendment is then redundant, correct? Oh, we do have to go for it?

Clerk of the Committee (Ms Donna Bryce): Yes.

The Chair: Then there is another amendment that Mr Cleary will propose to this same section.

Mr Cleary: I move that section 3 of the bill be amended by adding the following subsection:

"Members

"(1.1) The board shall consist of not more than five members appointed by the minister, at least one of whom shall be a member of the council of a municipality that belongs to the Rural Ontario Municipal Association."

Ms Churley: That answers your question.

Mr Danford: I see some problems with restricting a board to not more than five members, first of all. I think that's a very small number to represent the province of Ontario. We've found from past experience that should sickness or some other reasons occur for those members, and the fact that further on in the bill a quorum has to

comprise three, it's very restrictive for it to be only five members. We found that it would not work well as the board at the present time is larger than five, as I think most of you realize, and it has worked quite well, given the difference in the areas and so on, to deal with any issues that come before the board.

The second part of it is that we would designate specifically that someone would have to be a representative of ROMA, the rural Ontario municipalities. It has always been the practice that the makeup of the board includes someone from the municipalities. It is clearly intended to still carry members from that organization, in fact to even increase them through our consultation with the stakeholders and with ROMA and AMO. There's certainly an intention to do that. But I think if we try to list specific organizations as the makeup of the board, then we can find it very difficult.

I would just give you the example that if we list in this case ROMA, as you've requested, then is it not fair to list every other organization that may wish to be on that board and be represented? I think we could find ourselves in a real problem. Certainly when we appoint members to the board, because of our municipal elections and so on those members could be redundant and we could find ourselves in the position on many occasions where we would have to struggle to find someone else to replace someone because of a municipal election. I use that as an example.

Mr Cleary, with your experience and your background, you could surely see what I'm referring to and how difficult it could be to maintain that continuity in the board. So for a number of reasons, I would have a real problem with this. I really couldn't support it.

Mr Cleary: I can understand what you're saying there, but everywhere we go now, with changes in boundaries of municipalities and towns and everything being taken over under municipal councils, the people across the province in the rural agricultural end of it are worried about being left out and not having the representation that they've had before in rural Ontario.

Mr Danford: We all recognize that the Ministry of Agriculture, Food and Rural Affairs deals with this. I think they take the considerations and the concerns of the rural public into account as well. Any minister, regardless of whatever government stripe, would have to address that and make sure that was in place as well.

Because of some of the other reasons I mentioned earlier, it would be very cumbersome and we would not have the continuity to address those normal farm practices and the concerns that may come before them if we had to be continually replacing someone because of all the reasons I mentioned before. It would be very difficult to work under those circumstances, and to designate one particular group that would form part of that board it would be imperative that we'd have to name other groups as well. I think it just becomes beyond reason.

The Chair: Further discussion or comment? Seeing none, I put the question on the motion: Shall this amendment carry? All those in favour? All those opposed? The amendment is lost.

Seeing that there are no amendments to section 3, shall section 3 carry? All those in favour? Opposed? It carries.

There are no amendments to section 4 or section 5. Shall section 4 and section 5 carry? All those in favour? Opposed? Carried.

Section 6: We have an NDP amendment.

Ms Churley: I move that subsection 6(1) of the bill be amended — I'll fix the typo there — be struck out and the following substituted:

"Normal farm practice preserved

"(1) No municipal bylaw that comes into force after this act comes into force applies to restrict a normal farm practice carried on as part of an agricultural operation."

Although I know technically I have to read the next amendment, which is subsection 6(17), into the record and have it voted on after, I will speak to these two amendments at the same time because they're connected: subsection 6(1) and subsection 6(17).

Both of these are dealing with the immunity agricultural operations will gain from municipal bylaws through this act. I think the major concern here is subsection 6(17), in fact, which enables farmers to challenge bylaws that were passed even before the idea of Bill 146 was publicly discussed or disseminated. As such, we've removed these subsections, that they not apply to the bylaws that came into force before this act even came into force. That's the concern there, the bigger concern. That's why I have put in both of these amendments.

Mr Galt: To the parliamentary assistant, some of this has come up in discussion at various times. I'm curious about some of the bylaws you've come across that might create concerns. How big a concern is it out there? I guess I'm trying to get a little more feel. The day I sat in committee this did not come up, but I have heard rumblings out there. I just wonder if you have some examples whereby it's wise that they be struck down. I'm just looking for a little information or direction that you've had.

Mr Danford: In response, as you suggested, as on the day that you were there and had an opportunity to listen to the comments, that is the trend. There have not been a lot of bylaws that have been passed previously that would come under that and cause a conflict. But in all fairness, to be equally fair to someone who has been criticized for not having a normal farm practice, we felt it was necessary that anyone in that category, and everyone, should be able to be dealt with fairly and equitably, whether it was before or after. If there is a concern, they should have the right to come to the board, regardless. It puts all municipal bylaws in the same category. Basically, that's the reason and the rationale for it.

In referring directly to (17), for the benefit of Ms Churley, I think you can appreciate that even while we're going through the process that we are today and leading up to when we hope the bill will be proclaimed, there is an opportunity there for bylaws to be presented by the municipal council to put in place, and if they were not able to come before the Normal Farm Practices Protection Board, that would jeopardize those farming organizations. In order to create a level playing field, we had to have that in

there to put everyone on the same basis, because I think you can see what the possibilities could be. There could be many municipal bylaws implemented in a very short period of time and therefore not be able to be dealt with through this avenue, which is the purpose of it. So that's the reason basically for (17).

If we go to 6(1), it simply says, "No municipal bylaw applies to restrict a normal farm practice carried on as part of an agricultural operation." It simply means all bylaws, before or after.

1110

Mr Galt: There was just one bylaw that came to mind as this came up. It was in a township where they passed a bylaw to end or stop or prevent the spreading of sewage sludge on the farm lands in that municipality, or any lands in that municipality, which really limited what the local urban centre could do with their sludge and really was not consistent with the various farm practices boards that were meeting at the time, and certainly developing or evolving into a normal farm practice. That was one that came to my mind. I'm not sure if that municipality still has it in place or whether they finally dropped it from encouragement by the Ministry of Environment, but it is one example whereby you can see where this bill would override it, understandably so, for the rights of the farmers who want to use such a material to enrich the farm land.

Mr Danford: If I can be a little more specific, when you first asked your question there was reference made to, for instance, lids on a manure storage pit. It may or may not be necessary, depending on the circumstances. It could be considered, not necessarily for other reasons but from a safety point of view. So you have to deal with that as it occurs in an area or whatever, but I just use that as a suggestion. You did ask something specific, so that's one thing that comes to mind through our consultation.

Ms Churley: Just to pursue this, I don't think I was at the hearing where the sewage sludge issue came up, so I don't know the background to this. I don't know why this particular municipality would have banned it from being used. I do know, however, that that is a good example of why I put this amendment forward. It may be that the municipality came to the conclusion that there were, I don't know, heavy metals, lead, zinc, whatever, within that sewage sludge and took it upon itself to make a decision to protect the people of that area from that kind of consistent toxic chemical going into the soil and therefore into the food chain.

I don't know if that's the situation in this case, but I do know that is one example where, having come from municipal council at one time, and many of us have, what I have found, frankly, is that often municipalities are ahead of larger governments in terms of environmental protection, for obvious reasons. The smaller government is closer to the people.

I'm saying this in fairness. I understand why you're doing it and I can see reasons why you're trying to protect the farmer here in this case, but I think your example actually is one where it's a toss-up. It could work the other way, where you have a government that is not paying a

whole lot of attention perhaps to issues around, say, sewage sludge and the content of that. There might be newer evidence that this municipality has about the content of that and the long-term implications, but the government hasn't caught up yet to that kind of information and is slow to move on it. I'm concerned about that possibility of a municipality being ahead on some of the issues and being stopped from protecting the health and environment in their own area. So that's my concern about it.

Mr Galt: If I may, just a minor correction. It was a bylaw I was aware of. It didn't come before the hearings when I was there. Very minor.

The other thing is, certainly all sewage sludges have to be tested prior to being spread, so it's being monitored constantly. It's a requirement of the municipality to have it tested. There should not be a risk of things such as heavy metals etc when this is being properly carried out as required under the EPA.

Ms Churley: I understand that it has to be tested, but I am also saying — and this is an issue that I know. I do know about sewage sludge because of Ashbridges Bay, which is actually in the Beaches riding but it impacts on my riding. There are different opinions, as you well know, within the environmental community and throughout industry and government about what levels are considered safe, and that constantly changes; for example, in my riding of Riverdale the lead issue many years ago, where children suffered from learning disabilities from high lead levels in their blood. For many years the official number that was considered safe for lead in our blood was much higher than it is today because at that time governments accepted from the scientific community what was considered to be a safe level. As it turned out, tragically, that level was way off and children literally were being brain damaged. This is all documented: very tragic consequences.

I was not a municipal politician then; I was an activist. By the time we got governments to pay attention — and we've all been there, right, before we got here? — and listen to us that these levels were no longer considered to be applicable, these children had already been damaged, after years of lobbying and struggling. But we got our city council to pay attention first and to believe us and to do the extra studies that were needed, to stop and to do something about the lead plants.

So I think my point is still well taken, that just because there is now on the books an acceptable level of what kinds of heavy metals etc are in that sludge, it does not necessarily mean that it actually is safe. I know we could argue all day about this, but that is still my concern.

The Chair: Further questions or comments? Seeing none, I put the question: Shall the NDP amendment carry? All those in favour? Opposed? It's lost.

You have a second amendment, Ms Churley. You've already spoken to that. Would you please read it into the record.

Ms Churley: I move that subsection 6(17) of the bill be amended by striking out and the following substituted: "Application

"(17) This section does not apply to bylaws that came into force before this act came into force."

I've already spoken and we've had a discussion around this, so I'm happy to vote on it.

The Chair: Is there any further discussion to this amendment? Seeing none, I put the question: Shall this amendment carry? All those in favour? All those opposed?

Ms Churley: We won that one.

The Chair: No, there are four hands up. It's lost. Sorry.

Shall section 6 carry? All those in favour of section 6? All those opposed? It's carried.

Section 7 and section 8 have no amendments proposed. Shall section 7 and section 8 carry? All those in favour? All those opposed? Section 7 and section 8 carry.

Section 9: There is a Liberal amendment to section 9.

Mr Cleary: I move that subsection 9(1) of the bill be struck out and the following substituted:

"Guidelines, etc.

"(1) The minister may issue directives, guidelines or policy statements in relation to agricultural operations or normal farm practices.

"Publication

"(1.1) Within 90 days of issuing directives, guidelines or policy statements, the minister shall publish them in the Ontario Gazette.

"Compliance by board

"(1.2) The board's decisions under this act must be consistent with the minister's directives, guidelines and policy statements."

The Chair: Did you want to comment on, discuss or speak to this amendment?

Mr Cleary: Not really, thanks. I think it's explained.

The Chair: All right. Further questions or comments?

Mr Danford: In reference to this, we felt the way this section is written in the act is certainly adequate. Certainly there has been no intent by the minister to not issue directives, guidelines or policy statements and be clearly up front, and they have been available at all times. We think it's necessary, of course, that all those things are available to the board, that when concerns come before them, they have access to them. I know that has even been suggested by the groups that were involved that said there was no concern about whether these things were being followed or not. They felt they had been followed adequately, and they had no concern that they would not be followed adequately in the future.

It does create the onus of putting it in the Gazette. I think that's the main intent of the whole motion, because most of it is fashioned with the same wording as we have except for that one extra sentence, I guess you'd say. We don't see it as having any change in the way business has been done within the ministry and for direction. We think the way the bill has been written at this point does cover it quite adequately.

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The Chair: Further questions or comments? Seeing none, I put the question: Shall this amendment carry? All those in favour? All those opposed? This motion is lost.

Shall section 9 carry? All those in favour? All those opposed? Section 9 carries.

An NDP amendment to section 10.

Ms Churley: I move that clause 10(a) of the bill be struck out.

The reason is the same as for some of the other amendments: ministerial power to alter the definition of "agricultural operation."

Mr Danford: I think to allow this amendment to go forth would restrict the flexibility I have mentioned. I have used that word probably quite often, but I do believe that in the industry we need that flexibility and I think without that being in there we would be very much hampered and the intent, the purpose and the benefit to the agricultural community would be affected. We think it's necessary to leave that in there and not create another level of red tape and so on, which certainly is not the feeling of this government nor, I might say, the industry. They felt it was necessary as well. For those reasons, I'll certainly be opposing it.

Ms Churley: Can I ask a question to the ministry? For instance, around the issue of large industrial hog farming, could the minister within that context redefine or define "agricultural operation" without any kind of cabinet discussion or any kind of legislative — behind closed doors? My understanding is that there is concern about the minister having that much power and there is concern about some of the new farm practices that are coming forward, particularly around the huge industrial hog farms. All members heard that. I believe there are two concerns. One is giving the minister that much power, but around some of the I think very real concerns about the growing huge industrial farming. Some of the small farmers are worried — this is my impression anyway — that these kinds of changes can be made behind closed doors without them knowing about it and could impinge and affect their smaller operations.

Mr George Garland: I'm not too clear with regard to the question. From the one standpoint, I know there are some perceived problems out there which certainly came out during the hearings with regard to industrial-sized operations. I think the key we have to look at here in all these issues between the small and the large is that the large in some people's minds may in the future be even smaller than what we think they could be right now. So I think you have to look at it from the standpoint that the minister would have to be very careful with regard to doing anything here without consultation, if that's partly what you're getting at.

Ms Churley: Yes, it is. It's the behind-closed-doors scenario here that I have concerns about. When a minister can make decisions, then it's up to the minister to have public consultations — or not. That's why I have a lot of concerns about too much ministerial power to be able to do that.

Mr Garland: To try to answer your question, I think it would be in the minister's best interests to certainly be consulting with the various stakeholders out there on that

issue. We know that with the current farm groups there is even some variation of what they consider to be large.

To help with maybe a concern of yours as well, large does not necessarily mean that it's bad. I think there is a lot of effort out there by farmers attempting to do all the right things from an environmental and a land stewardship standpoint. If they are taking care of those details, of such things as — if I just may for a moment here, there is an effort right now on nutrient management planning. They're keying in on three areas, and one has to do with the separation distances between manure storages and livestock facilities and other land uses. It's getting involved with appropriate manure storage sizing and then of course it is the actual application of the manure and utilizing it with crops.

I think all those types of things are being handled in a responsible way, and just because it's large doesn't mean that they are going to be irresponsible.

Ms Churley: I know we're on the last amendment and I won't keep us here much longer. I appreciate your answer. There are different opinions, as you know. You feel strongly that it will be done responsibly and large doesn't necessarily mean bad. I heard from many small farmers, which is again one of the reasons our party asked for a hearing — as you know, there is all-party support for this bill — some very serious concerns, particularly from some of the small farmers. They have seen and have documented problems that have happened, which I'm sure you know about, Mr Garland, of large industrial pig farms in the United States and Europe where it has not been done responsibly.

In fact, I just heard on the news, in the middle of these hearings or towards the end — I forget which state it was; you may have heard this — there was a huge manure spill into the drinking water supply of a rural area and this particular operation got fined a large amount of money but the damage was done. As we know, this has happened in other areas in the United States as well, and Europe. We had discussions at the committee level around: "This is not going to happen in Ontario. Don't worry. Be happy. We're all responsible. We'll take care of it. We won't let it happen."

I think we have to give legitimacy to those small farmers who have been there for generations who feel that this bill, as it's worded in certain sections, does not protect their interests. I suppose they are a special interest, but this is not just the so-called special interest environmental groups talking. These were very serious concerns raised based on experiences in other jurisdictions.

I would just like to say that I appreciate the opportunity — I think all of us do, from all sides of the House, who had to go out — to go out into the community and hear from people and let them have their say. Certainly we are now aware that those concerns are out there. Obviously the government has not agreed to any of my amendments, but I would ask that you do be vigilant and be concerned. It has happened in other jurisdictions, and if you're not vigilant within the context of this bill these things could happen. I think you would agree with that. They could

happen if the farm community itself and the government are extremely responsible in terms of how these operations are set up.

Mr Danford: We recognize the concerns you have too. I guess I could go so far as to say that, being considered a small farmer myself, I also have concerns. The industry as a whole, whether you're large or small, has an appreciation for the environment. I honestly believe that no one has more dedication to maintaining that environment because it is their livelihood. That's where stewardship of the land and so on comes in and all those other things. But it was clearly stated to us from the very beginning, regardless of the level of participation as far as the size of their operation is concerned, that they all wanted the same thing and they all had to adhere to all the controls that are already there, as we went through the bill.

Some of the examples you mentioned this morning are a real indication and something for us to make sure never happens here. We have to monitor all of those things, and that's even more of a reason for us not to have it happen here, when we see what could happen. All I can do is assure you that those things have been taken into consideration, and some of the things that George has mentioned certainly are in the process, with the industry and the ministry working together.

George, I don't know if you want to add anything to it or not, but I think it is important, because it is a concern that affects everyone, and we all share that genuine concern.

Mr Garland: If I may just continue on to try to give a little bit of further assurance here, again, I think this is what makes Ontario a little bit different from some of the other countries and perhaps states too. The farmers are

being quite proactive here in establishing — again, most of the time it seems to come down to dealing with pollution of water and it's tending to come from livestock manure, so they've got quite an effort right now. They did consultation actually in the last couple of weeks, going around the province trying to get input on their strategy of how to handle this nutrient management plan. They will be coming out in the next few weeks with that plan. I think Ontario stands out here in that they believe in this process, and also, to help out here, if anyone is polluting, they do want them to be held accountable.

The Chair: Further questions or discussion? Seeing none, I put the question to a vote: Shall this amendment carry? All those in favour? All those opposed? The amendment is lost.

Shall section 10 carry? All those in favour of section 10? Opposed? It carries.

There are no amendments to sections 11, 12 or 13. Shall sections 11, 12 and 13 carry? All those in favour? All those opposed? Sections 11, 12 and 13 carry.

Shall the long title of the bill carry? All those in favour? All those opposed? It carries.

Shall the bill, as amended, carry? All those in favour? Opposed? Carried.

Shall I report this bill, as amended, to the House? All those in favour? Opposed? It carries. I shall report it to the House.

Ladies and gentlemen, that concludes our clause-by-clause discussion of Bill 146. I thank you for your attention to this matter. We shall reconvene at the call of the Chair.

The committee adjourned at 1133.

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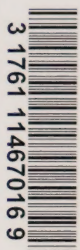
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